

## **BILL ANALYSIS**

Senate Research Center  
81R1848 JD/ACP/JTS/MTB/SLB-D

S.B. 1019  
By: Hegar  
Transportation & Homeland Security  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Since its beginnings as the State Highway Department in 1917, the Texas Department of Transportation (TxDOT) has evolved from its original responsibilities of directing county road construction programs to a much broader mission of delivering a 21st century transportation system. Currently, TxDOT carries out its mission of providing safe, efficient, and effective means for the movement of people and goods throughout the state with an annual budget of more than \$8 billion and about 14,000 employees.

TxDOT is subject to the Sunset Act and will be abolished on September 1, 2009, unless continued by the Legislature.

S.B. 1019 incorporates recommendations designed to strengthen the legislature's oversight of TxDOT and address the demand for more transparency, accountability, and responsiveness from TxDOT and continue TxDOT for a further four years.

As proposed, S.B. 1019 provides for the continuation and function of the Texas Department of Transportation, including the establishment of the Division of Motor Vehicles (DMV) and transfers to DMV all the powers and duties of TxDOT.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the Texas Transportation Commission (TTC) is transferred to the commissioner of transportation (commissioner) in SECTION 1.04 (Section 201.101, Transportation Code), SECTION 1.06 (Section 201.105, Transportation Code), SECTION 1.08 (Section 201.111, Transportation Code), SECTION 1.09 (Section 201.112, Transportation Code), and SECTION 1.11 (Section 201.114, Transportation Code) of this bill.

Rulemaking authority is expressly granted to Texas Department of Transportation (TxDOT) in SECTION 2.05 (Sections 201.992, 201.995, 201.996, and 201.997, Transportation Code), SECTION 4.01 (Section 223.002, Transportation Code), SECTION 4.02 (Section 223.017, Transportation Code), SECTION 6.02 (Section 391.006, Transportation Code), and SECTION 6.12 (Section 394.006, Transportation Code), of this bill.

Rulemaking authority previously granted to TTC is rescinded in SECTION 3.01 (Section 201.801, Transportation Code) of this bill.

Rulemaking authority is expressly granted to TTC in SECTION 3.01 (Section 201.801, Transportation Code), SECTION 5.05 (Sections 2301.807 and 2302.352, Transportation Code), and SECTION 6.15 (Sections 394.0205 and 394.0206, Transportation Code) of this bill.

Rulemaking authority previously granted to TxDOT is modified in SECTION 5.01 (Section 643.153, Transportation Code) of this bill.

Rulemaking authority previously granted to TTC is modified in SECTION 6.07 (Section 391.065, Transportation Code) of this bill.

Rulemaking authority is expressly granted to the Department of Motor Vehicles (DMV) in SECTION 8.1.01 (Section 1002.001, Transportation Code) of this bill.

Rulemaking authority previously granted to TTC is transferred to the board of DMV in SECTION 8.2F.02 (Section 503.003, Transportation Code), SECTION 8.2J.02 (Section 621.003, Transportation Code), SECTION 8.2J.09 (Section 621.352, Transportation Code), SECTION 8.2J.10 (Section 621.356, Transportation Code), SECTION 8.2L.03 (Section 623.076, Transportation Code), SECTION 8.2L.04 (Sections 623.145, 623.195, and 623.239, Transportation Code), SECTION 8.2L.06 (Section 623.259, Transportation Code), SECTION 8.2V.04 (Sections 2302.051 and 2302.053, Occupations Code), SECTION 8.2V.05 (Section 2302.108, Occupations Code), and SECTION 8.2V.06 (Section 2302.204, Occupations Code) of this bill.

Rulemaking authority previously granted to the commission is transferred to the commissioner of transportation by reference in SECTION 8.2L.02 (Section 623.051, Transportation Code) of this bill.

Rulemaking authority previously granted to TxDOT is transferred to DMV in SECTION 8.2H.01 (Section 551.302, Transportation Code), SECTION 8.2M.01 (Section 642.002, Transportation Code), and SECTION 8.3H.04 (Section 130.009, Local Government Code) of this bill.

Rulemaking authority previously granted to TxDOT, the Department of Public Safety and the Texas Department of Insurance is transferred to DMV in SECTION 8.2Q.01 (Section 648.002, Transportation Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1.01. Amends Section 201.003, Transportation Code, as follows:

Sec. 201.003. New heading: TITLE AND ORGANIZATIONAL CHANGES. (a) Makes no changes to this subsection.

(b) Provides that a reference in law to the State Highway Commission, State Highway and Public Transportation Commission, or Texas Transportation Commission (TTC) means the commissioner of transportation (commissioner), rather than TTC.

(c) Provides that a reference in law to the State Highway Engineer, the State Engineer-Director for Highways and Public Transportation, or the director (director) of the Texas Department of Transportation (TxDOT) means the commissioner.

(d) Deletes existing text providing that a reference in law to the commissioner of transportation means the chair of TTC. Requires that a law that authorizes TTC to authorize the director of TxDOT to take an action be construed to authorize the commissioner of transportation to take that action. Deletes existing text that provides that a reference in law to a member of TTC means a commissioner.

SECTION 1.02. Amends Subchapter B, Chapter 201, Transportation Code, as follows:

SUBCHAPTER B. New heading: COMMISSIONER OF TRANSPORTATION

Sec. 201.051. New heading: COMMISSIONER. (a) Provides that the commissioner is appointed by the governor with the advice and consent of the senate for a term that expires February 1 of each odd-numbered year, rather than providing that TTC consists of five members appointed by the governor with the advice and consent of the senate.

(b) Provides that to be eligible for appointment as commissioner, or appointment to fill a vacancy in the office of commissioner, a person is required to be experienced and skilled in transportation planning, development, financing, construction, and maintenance or have appropriate finance or management experience, and is prohibited from having served as a member of the legislature of this state during the preceding 10 years. Deletes existing text requiring that the

members be appointed to reflect the diverse geographic regions and population groups of this state and that one member reside in a rural area.

(c) Redesignates Subsection (d) as Subsection (c). Provides that a person is not eligible for appointment as commissioner if the person or the person's spouse has certain characteristics, including using or receiving a substantial amount of tangible goods, services, or funds from TxDOT, other than compensation or reimbursement authorized by law for expenses, rather than authorized by law for TTC membership, attendance, or expenses. Deletes existing text requiring each member of TTC to represent the general public; providing that except as provided by Subsection (e), a person is not eligible for appointment as a member of TTC if the person or the person's spouse has certain qualifications.

(d) Redesignates Subsection (f) as Subsection (d). Makes a conforming change.

(e) Redesignates Subsection (g) as Subsection (e). Makes a conforming change.

(f) Redesignates Subsection (h) as Subsection (f). Makes a conforming change.

(g) Redesignates Subsection (i) as Subsection (g). Makes a conforming change.

(h) Redesignates Subsection (j) as Subsection (h). Redefines "Texas trade association."

(i) Provides that the commissioner is a successor to TTC for all purposes, including for the purposes of Sections 49-k (Texas Mobility Fund), 49-l (Financial Assistance to Counties for Roadway Projects to Serve Boarder Colonias), 49-m (Texas Department of Transportation Short-Term Notes and Loans), 49-n (Highway Tax and Revenue Anticipation Notes; as added by Acts 2003, 78th Leg., R.S., H.J.R. No. 28) and (General Obligation Bonds and Notes for Military Value Revolving Loan Account, as added by Acts 2003, 78th Legislature, Regular Session, S.J.R. No. 55), and 49-o (Texas Rail Relocation and Improvement Fund), Article III, Texas Constitution.

Sec. 201.052. New heading: CERTAIN DUTIES. Requires the commissioner, rather than the chair, to perform certain duties, including periodically review TxDOT's organizational structure and submit recommendations for structural changes to the governor and the Legislative Budget Board (LBB), rather than to the governor, TTC, and the LBB; and to appoint a deputy commissioner to act in the commissioner's, rather than chair's, absence. Deletes existing text requiring members of TTC to serve staggered six year terms, with the terms of either one or two members expiring February 1 of each odd-numbered year. Redesignates Subsection (3) as Subsection (2), Subsection (4) as Subsection (3), Subsection (6) as Subsection (4), Subsection (7) as Subsection (5), Subsection (8) as Subsection (6), and Subsection (10) as Subsection (7). Deletes existing Section 201.053 (Chair of the Commission). Deletes existing text requiring the chair to preside over TTC meetings, make rulings on motions and points of order, and determine the order of business; report to TTC the governor's suggestions for TxDOT operations; create subcommittees, appoint commissioners to subcommittees, and receive the reports of subcommittees to TTC as a whole. Deletes existing Sections 201.054 (Commission Meetings) and 201.0545 (Recommendations to Legislature).

Sec. 201.053. COMPENSATION. Redesignates Section 201.056 as Section 201.053. Entitles the commissioner, rather than a member of TTC, to compensation as provided by the General Appropriations Act. Makes conforming changes.

Sec. 201.054. GROUNDS FOR REMOVAL. (a) Provides that it is a ground for removal if the commissioner does not have at the time of taking office or maintain during service as commissioner the qualifications required by Section 201.051, violates a prohibition provided by Section 201.051 or 201.401, or cannot discharge the commissioner's duties for a substantial part of the term for which the commissioner is appointed because of illness or disability. Deletes existing text providing that it is a

ground for removal from TTC if a commissioner does not meet certain conditions or takes certain actions. Deletes existing Subdivision (4) (relating to a ground for removal from the commission if a commissioner is absent for more than half of the regularly scheduled commission meetings under certain conditions).

(b) Provides that the validity of an action of the commissioner or TxDOT, rather than TTC, is not affected by the fact that it is taken when a ground for removal of the commissioner, rather than a commissioner, exists. Deletes existing Subsection (c) (relating to a requirement that the director, if the director knows that a potential ground for removal exists, take certain actions).

Sec. 201.055. INFORMATION ON QUALIFICATIONS AND CONDUCT. Redesignates Section 201.058 as Section 201.055. Requires TxDOT to provide to the commissioner, rather than members of TTC, as often as necessary, information concerning the commissioner's, rather than member's, qualifications for office and the commissioner's responsibilities and responsibilities under applicable laws relating to standards of conduct for state officers, rather than qualifications for office under Subchapter B and their responsibilities under applicable laws relating to standards of conduct for state officers.

Sec. 201.056. TRAINING ON DEPARTMENT AND CERTAIN LAW RELATING TO DEPARTMENT. Redesignates Section 201.059 as Section 201.056. Requires a person appointed as commissioner to complete at least one course of a training program that complies with this section to be eligible to take office as commissioner. Makes conforming changes.

(b) Requires that the training program provide information to the person regarding certain information, including any applicable ethics policies adopted by TxDOT, rather than TTC, or TEC. Deletes existing Subsection (c) (relating to a person appointed to TTC being entitled to reimbursement for certain expenses).

SECTION 1.03. Amends the heading to Subchapter C, Chapter 201, Transportation Code, to read as follows:

#### SUBCHAPTER C. COMMISSIONER'S POWERS AND DUTIES

SECTION 1.04. Amends Sections 201.101, 201.102, and 201.103, Transportation Code, as follows:

Sec. 201.101. RULES; RECORDS. Requires the commissioner, rather than TTC, to perform certain duties.

Sec. 201.102. SEPARATION OF RESPONSIBILITIES. Makes conforming changes.

Sec. 201.103. COMPREHENSIVE SYSTEM OF HIGHWAYS AND ROADS. Makes conforming changes.

SECTION 1.05. Amends Sections 201.104(a) and (b), Transportation Code, to make conforming changes.

SECTION 1.06. Amends Sections 201.105(a), (b), (d), (e), and (g), Transportation Code, to make conforming changes.

SECTION 1.07. Amends Sections 201.1055(c) and (d), Transportation Code, to make conforming changes.

SECTION 1.08. Amends Sections 201.107, 201.108, 201.109, 201.110, and 201.111, Transportation Code, as follows:

Sec. 201.107. FINANCIAL REPORTS OF THE DEPARTMENT. Makes conforming changes.

Sec. 201.108. INTERNAL AUDITOR. Makes conforming changes.

Sec. 201.109. REVENUE ENHANCEMENT. Makes conforming changes.

Sec. 201.110. CONTRACT WITH ADJOINING STATE FOR IMPROVEMENT OR ROAD CROSSING STATES' BOUNDARY. (a) and (b) Makes conforming changes.

(c) Makes no change to this subsection.

Sec. 201.111. RECOMMENDATION OF ENGINEER; DETERMINATION OF FITNESS. (a) Makes conforming changes.

(b) Requires the commissioner, rather than TTC, to adopt rules necessary to determine the qualifications of engineers who apply for highway construction work.

SECTION 1.09. Amends Section 201.112(a), Transportation Code, to authorize the commissioner, rather than TTC, by rule to establish procedures for the informal resolution of a claim arising out of a contract described by Section 22.018 (Designation of Texas Department of Transportation as Agent in Contracting and Supervising), Chapter 223 (Bids and Contracts for Highway Projects), Chapter 361 (State Highway Turnpike Projects), Section 391.091 (Erection and Maintenance of Signs), or Chapter 2254 (Professional and Consulting Services), Government Code.

SECTION 1.10. Amends Section 201.113(a), Transportation Code, to make a conforming change.

SECTION 1.11. Amends Sections 201.114(b), (c), and (d), Transportation Code, to make conforming changes.

SECTION 1.12. Amends Sections 201.115(a) and (b), Transportation Code, to make conforming changes.

SECTION 1.13. Amends Sections 201.116(b) and (d), Transportation Code, to make conforming changes.

SECTION 1.14. Amends Sections 201.201 and 201.202, Transportation Code, as follows:

Sec. 201.201. GOVERNANCE OF DEPARTMENT. Makes a conforming change.

Sec. 201.202. DIVISIONS; DIVISION PERSONNEL. (a) Requires the commissioner, rather than TTC, to organize TxDOT into certain divisions including rail transportation, rather than motor vehicle titles and registration.

(b) Requires the person designated by the commissioner, rather than the director, to supervise the division responsible for highways and roads to be a registered professional engineer experienced and skilled in highway construction and maintenance.

(c) Requires a person designated by the commissioner as TxDOT's chief financial officer to report directly to the commissioner. Deletes existing text requiring that in appointing a person to supervise a function previously performed by the former State Department of Highways and Public Transportation, Texas Department of Aviation, or Texas Turnpike Authority, preference be given to a person employed in a similar position in that former agency.

SECTION 1.15. Amends Section 201.204, Transportation Code, to provide that unless continued in existence as provided by Chapter 325, Government Code, TxDOT is abolished September 1, 2013, rather than 2009.

SECTION 1.16. Amends Subchapter D, Chapter 201, Transportation Code, by adding Sections 201.210, 210.211, 201.212, and 201.213, as follows:

Sec. 201.210. COMPLIANCE CERTIFICATION. (a) Requires the commissioner and TxDOT's chief financial officer, not later than September 1 of each year, to each certify in writing that the commissioner or the officer, as applicable, is responsible for establishing and maintaining TxDOT's internal controls, has evaluated the effectiveness of TxDOT's internal controls, has presented conclusions about the effectiveness of TxDOT's internal controls and applicable reporting requirements, and has effectively complied with all applicable legislative mandates.

(b) Requires the commissioner and TxDOT's chief financial officer to submit the certifications required by Subsection (a) to the governor, the lieutenant governor, the speaker of the house of representatives, the chair of the standing committee of each house of the legislature with primary jurisdiction over transportation matters, and the Transportation Legislative Oversight Committee (committee) under Chapter 205.

(c) Requires the committee to recommend to the 82nd Legislature appropriate penalties for failure to submit the certifications required by Subsection (a).

Sec. 201.211. LEGISLATIVE LOBBYING. (a) Prohibits the commissioner or a TxDOT employee, in addition to Section 566.066 (Legislative Lobbying), Government Code, from using money under TxDOT's control or engaging in an activity to influence the passage or defeat of legislation.

(b) Provides that violation of Subsection (a) is grounds for dismissal of an employee.

(c) Authorizes the commissioner or TxDOT employee, notwithstanding this section, to use state resources to provide public information or information responsive to a request or communicate with officers and employees of the federal government in pursuit of federal appropriations.

Sec. 201.212. ETHICS AFFIRMATION AND HOTLINE. (a) Requires a TxDOT employee to annually affirm the employee's adherence to the ethics policy adopted under Section 572.051(c) (relating to the requirement for each state agency to perform certain actions), Government Code.

(b) Requires TxDOT to establish and operate a telephone line to be known as the Ethics Hotline that enables a person to call the hotline number, anonymously or not anonymously, to report an alleged violation of the ethics policy under Section 572.051(c), Government Code.

Sec. 201.213. LEGISLATIVE APPROPRIATIONS REQUEST. Requires TxDOT to deliver TxDOT's legislative appropriations request to the commissioner in an open meeting not later than the 30th day before the commissioner adopts the legislative appropriations request for submission to the Legislative Budget Board (LBB).

SECTION 1.17. Amends Subchapter E, Chapter 201, Transportation Code, as follows:

**SUBCHAPTER E. New heading: STATE ROAD MAP; UNIVERSITY LABORATORIES**

Sec. 201.301. STATE ROAD MAP. Redesignates Section 201.302 as Section 201.301. Deletes existing text of Section 201.301, relating to TTC electing an executive director for TxDOT and the responsibilities, qualifications, and compensation of the executive director. Makes a conforming change.

Sec. 201.302. Redesignates Section 201.303 as Section 201.302. **USE OF UNIVERSITY LABORATORIES FOR ANALYZING MATERIALS.** Makes conforming changes.

SECTION 1.18. Amends Section 201.404(b), Transportation Code, as follows:

(b) Requires the commissioner or the commissioner's designee, rather than the director or the director's designee, to develop a certain system of annual performance. Requires the commissioner, if an annual performance evaluation indicates that an employee's performance is unsatisfactory, to consider whether the employee should be terminated. Requires that the annual performance evaluations developed under this subsection include the evaluation of an employee's professionalism, diligence, and responsiveness to directives and requests from the commissioner and the legislature.

SECTION 1.19. (a) Amends Subtitle A, Title 6, Transportation Code, by adding Chapter 205, as follows:

#### CHAPTER 205. TRANSPORTATION LEGISLATIVE OVERSIGHT COMMITTEE

Sec. 205.001. DEFINITION. Defines "committee."

Sec. 205.002. ESTABLISHMENT; COMPOSITION. (a) Establishes the Transportation Legislative Oversight Committee (committee) to provide objective research, analysis, and recommendations on the operation and needs of the state transportation system.

(b) Sets forth the composition of the six-member committee.

(c) Provides that an appointed member of the committee serves at the pleasure of the appointing official.

Sec. 205.003. PRESIDING OFFICER; TERM. (a) Requires the lieutenant governor and the speaker of the house of representatives to appoint the presiding officer of the committee on an alternating basis.

(b) Provides that the presiding officer of the committee serves a two-year term that expires February 1 of each odd-numbered year.

Sec. 205.004. POWERS AND DUTIES. (a) Requires the committee to:

(1) monitor TxDOT's planning, programming, and funding of the state's transportation system;

(2) conduct an in-depth analysis of the state transportation system that includes a certain assessment of the cost-effectiveness of the use of state, local, and private funds in the transportation system, an identification of critical problems in the transportation system, such as funding constraints, and a determination of the long-range needs of the transportation system;

(3) recommend to the legislature strategies to solve the problems identified under Subdivision (2)(B) (relating to the requirement for the committee to conduct an in-depth analysis of the state transportation system that includes an identification of certain problems), and policy priorities to address the long-range needs determined under Subdivision (2)(C) (relating to the requirement for the committee to conduct an in-depth analysis of the state transportation system that includes a determination of the long-range needs of the transportation system);

(4) advise and assist the legislature in developing plans, programs, and proposed legislation to improve the effectiveness of the state transportation system.

(b) Provides that the committee has all other powers and duties provided to a special committee by Subchapter B, Chapter 201, Government Code, the rules of the senate and the house of representatives, and policies of the senate and house committees on administration.

Sec. 205.005. REVIEW OF RESEARCH PROGRAM. (a) Requires TxDOT to present TxDOT's entire research program to the committee for review and comment before adopting or implementing the program.

(b) Requires the committee to review and comment on TxDOT's research program, including each of the individual research projects and activities. Requires that the review of a proposed research project take into consideration for the purposes of the project, the proposed start and ending dates for the project, and the cost of the project.

(c) Requires TxDOT to provide to the committee quarterly updates and an annual summary on the progress of TxDOT's research projects and activities.

(d) Authorizes the committee to request the results of any of TxDOT's research projects, including draft reports from TxDOT or the contracted entities performing the research.

(e) Authorizes a university transportation research program in this state to perform transportation research projects requested by the committee and initiate and propose transportation research projects to the committee.

(f) Authorizes the committee to request assistance from a university transportation research program in this state in conducting transportation research and in reviewing, evaluating, and comparing elements of the state transportation system to the transportation systems in other states to set needed benchmarks.

Sec. 205.006. CONTRACT WITH CONSULTING FIRM. (a) Authorizes the committee to contract with an outside management consulting firm that is independent of TxDOT to make recommendations regarding an effective and efficient organizational structure for TxDOT, such as recommending appropriate performance measurements and staffing levels for each major function of TxDOT, including comparisons to best practices, after review and analysis under Section 205.007.

(b) Requires the consulting firm, in performing its functions, to coordinate with the Legislative Budget Board (LBB), the State Auditor's Office, and TxDOT to minimize the duplication of efforts and to perform cost effectively and in a timely manner.

(c) Requires the committee to:

(1) oversee the implementation of the recommendations under this section with the goal of making TxDOT more efficient, transparent, and accountable, including through reducing staff and streamlining processes; and

(2) assess TxDOT's progress in implementing the recommendations under this section and report on the progress to the Senate Finance Committee and House Appropriations Committee for consideration in establishing TxDOT's budget as part of the appropriations process.



Sec. 205.007. FUNCTIONS OF CONSULTING FIRM. Provides that the primary functions of a management consulting firm the committee contracts with under Section 205.006 include:

- (1) evaluating TxDOT's financial condition and business practices;
- (2) evaluating TxDOT's administrative practices and performance, including statewide transportation planning, TxDOT's relationship with metropolitan planning organizations, as defined by Section 472.031, the performance of TxDOT's district and central offices, and the need for standardization of TxDOT's operations across the state;
- (3) evaluating the current guidelines of metropolitan planning organizations and all other transportation entities within the state involved with project delivery or transportation policy by identifying duplicative practices and providing recommendations for better efficiency and transparency;
- (4) identifying ways to streamline all processes and procedures of policy implementation of TxDOT, including the environmental process;
- (5) examining and evaluating the use and benefits of performance-based maintenance contracting by TxDOT;
- (6) examining and presenting recommendations on how to maximize TxDOT's use of multimodal solutions;
- (7) analyzing TxDOT's compliance with applicable laws and legislative intent;
- (8) examining the efficient use of TxDOT's available funding, personnel, equipment, and office space;
- (9) evaluating the establishment in statute of a state pavement quality goal of having 85 percent of state roads in good or better condition; and
- (10) considering significantly expanding the use of the private sector for planning, design, and delivery of projects and a commitment to excellence in project and program management.

Sec. 205.008. MEETINGS. Requires the committee to meet at the call of the presiding officer.

Sec. 205.009. STAFF; AUTHORITY TO CONTRACT. Authorizes the committee to hire staff or to contract with universities or other suitable entities to assist the committee in carrying out the committee's duties. Requires that funding to support the operation of the committee be provided from funds appropriated to TxDOT.

Sec. 205.100. REPORT. Requires the committee, not later than January 1 of each odd-numbered year, to submit to the legislature a report that contains the recommendations described by Section 205.004 (a)(3).

(b) Requires the speaker of the house of representatives and the lieutenant governor to appoint members to the committee under Chapter 205, Transportation Code, as added by this section, not later than January 1, 2010.

(c) Requires the lieutenant governor, notwithstanding Section 205.003, Transportation Code, as added by this section, not later than January 15, 2010, to appoint a presiding officer for the committee. Provides that the presiding officer appointed by the lieutenant governor under this section serves a one-year term that begins on February 1, 2010, and ends on February 1, 2011.

(d) Provides that on the effective date of this Act all employees of TxDOT who primarily perform duties related to TxDOT's government and public affairs research section become employees of the committee under Chapter 205, Transportation Code, as added by this section, and all funds appropriated by the legislature to TxDOT for purposes related to TxDOT's government and public affairs research section are transferred to the committee under Chapter 205, Transportation Code, as added by this section.

SECTION 1.20. (a) Requires that the first commissioner appointed under the changes in law made by this article be appointed to serve for a term that begins January 1, 2011.

(b) Requires the members of TTC and the executive director TxDOT serving on the effective date, until the first commissioner appointed under this Act takes office, unless otherwise removed as provided by law, to continue in office under the prior law that governed the composition of TTC, and provides that prior law is continued in effect for that purpose. Provides that at the time the first commissioner appointed under this Act takes office, TTC is abolished.

(c) Provides that the commissioner succeeds to all powers, duties, rights, and obligations of TTC, and the abolition of TTC does not affect the validity of any right, duty, decision, rule, or action of any kind taken by or under the authority of TTC.

## ARTICLE 2. TRANSPORTATION PLANNING AND PROJECT DEVELOPMENT PROCESS

SECTION 2.01. Amends Section 201.601, Transportation Code, as follows:

Sec. 201.601. STATEWIDE TRANSPORTATION PLAN. (a) Requires TxDOT to develop a statewide transportation plan covering a period of 20 years that contains all modes of transportation.

(a-1) Requires that the plan:

(1) contain specific, long-term transportation goals for the state and measureable targets for each goal;

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

(3) contain a participation plan specifying methods for obtaining formal input on the goals and priorities identified under this subsection from other state agencies, political subdivisions, local planning organizations, and the general public.

(b) Requires TxDOT, as appropriate, and the entities listed in Subsection (a-1)(3), to enter into a memorandum of understanding relating to the planning of transportation services. Deletes existing text requiring TxDOT, in developing the plan, to seek opinions and assistance from other state agencies and political subdivisions that have responsibility for the modes of transportation listed by Subsection (a). Deletes existing text requiring TxDOT and such an agency or political subdivision, as appropriate, to enter into a memorandum of understanding relating to the planning of transportation services.

(c) Makes no changes to this subsection.

(d) Deletes existing text requiring that the plan include a certain annually published evaluation component. Requires TxDOT to consider the goals and measurable targets established under Subsection (a-1)(1) in selecting transportation projects, rather than the performance measures in selecting transportation improvements.

(e) Requires TxDOT to annually provide to the lieutenant governor, the speaker of the house of representatives, and the chair of the standing committee of each house of the legislature with primary jurisdiction over transportation issues an analysis of TxDOT's progress in attaining the goals under Subsection (a-1)(1). Requires TxDOT to make the information under this subsection available on its Internet website.

(f) Requires TxDOT to update the plan every five years.

SECTION 2.02. Amends Subchapter H, Chapter 201, Transportation Code, by adding Sections 201.6015 and 201.621, as follows:

Sec. 201.6015. INTEGRATION OF PLANS AND POLICY EFFORTS. Requires TxDOT, in developing each of its transportation plans and policy efforts, to clearly reference the 20-year plan under Section 201.601 and specify how the plan or policy effort supports or otherwise relates to the specific goals under that section.

Sec. 201.621. COORDINATION WITH METROPOLITAN PLANNING ORGANIZATIONS TO DEVELOP LONG-TERM PLANNING ASSUMPTIONS. Requires TxDOT to collaborate with metropolitan planning organizations to develop mutually acceptable assumptions for the purposes of long-range federal and state funding forecasts and use those assumptions to guide long-term planning in the statewide transportation plan under Section 201.601.

SECTION 2.03. Amends Subchapter D, Chapter 472, Transportation Code, by adding Section 472.035, as follows:

Sec. 472.035. COORDINATION WITH METROPOLITAN PLANNING ORGANIZATIONS TO DEVELOP LONG-TERM PLANNING ASSUMPTIONS. Requires each metropolitan planning organization to work with TxDOT to develop mutually acceptable assumptions for the purposes of long-range federal and state funding forecasts and use those assumptions to guide long-term planning in the organization's long-range transportation plan.

SECTION 2.04. (a) Amends Subchapter J, Chapter 201, Transportation Code, by adding Sections 201.807-201.810, as follows:

Sec. 201.807. PROJECT INFORMATION REPORTING SYSTEM. (a) Requires TxDOT to establish a project information reporting system (system) that makes available in a central location on TxDOT's Internet website easily accessible and searchable information regarding all of TxDOT's transportation plans, including the unified transportation program required by Section 201.992. Requires that the system contain information about:

(1) each TxDOT project, including the status of the project; each source of funding for the project; benchmarks for evaluating the progress of the project; timelines for completing the project; a list of TxDOT employees responsible for the project, including information to contact each person on the list; and the results of the annual review required under Subsection (d);

(2) each construction work zone for a project that has a construction phase timeline that exceeds one month or the cost of which exceeds \$5 million, including information about the number of lanes that will remain open during the project's construction

phase the location and duration of each lane closure; and the expected and actual traffic delay resulting from each lane closure;

(3) road maintenance projects, including the criteria for designating a project as a road maintenance project and the condition of each road before the road maintenance project; and

(4) TxDOT's funds, including each source for TxDOT's funds and each expenditure made by TxDOT reported by each department district, program funding category as required by Section 201.992(b)(2); and type of revenue, including revenue from a comprehensive development agreement or a toll project.

(b) Requires TxDOT, in developing the system, to collaborate with the legislature, local transportation entities as defined by Section 201.991, and members of the public.

(c) Requires TxDOT to make the statistical information provided under this section available on TxDOT's Internet website in more than one downloadable format.

(d) Requires TxDOT, as a component of the system required by this section, to conduct an annual review of the benchmarks and timelines of each project included in TxDOT's transportation plans, including the unified transportation program, to determine the completion rates of the projects and whether the projects were completed on time.

(e) Requires TxDOT to continuously update the information contained in the system.

Sec. 201.808. TRANSPORTATION EXPENDITURE PRIORITIES. (a) Requires TxDOT to develop a process to identify and distinguish between the transportation projects that are required to maintain the state infrastructure and the transportation projects that would improve the state infrastructure in a manner consistent with the statewide transportation plan required by Section 201.601.

(b) Requires TxDOT to establish a transportation expenditure reporting system that makes available in a central location on TxDOT's Internet website easily accessible and searchable information regarding the priorities of transportation expenditures for the identified transportation projects.

(c) Requires TxDOT to include in the transportation expenditure reporting system:

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

(2) the evaluation of the effectiveness of expenditures by TxDOT required by Section 201.601(d);

(3) reports prepared by TxDOT or an institution of higher education that evaluate the effectiveness of TxDOT's expenditures on transportation projects to achieve the transportation goal;

(4) information about the condition of the pavement for each highway under the jurisdiction of TxDOT, including the international roughness index issued by the United States Department of Transportation Federal Highway Administration,

and the percentage of pavement that TxDOT determines to be in good or better condition;

(5) certain information about the condition of bridges;

(6) certain information about traffic congestion and traffic delays; and

(7) certain information about traffic accidents, injuries, and fatalities.

(d) Requires TxDOT to provide the information made available under Subsection (c) in a format that allows a person to conduct electronic searches for information regarding a specific county, highway under the jurisdiction of TxDOT, or class or road.

(e) Requires TxDOT to establish criteria to prioritize the transportation needs for the state that is consistent with the statewide transportation plan.

(f) Requires each TxDOT district to enter information into the transportation expenditure reporting system, including information about each district transportation projects and the priority category to which the project has been assigned according to Section 201.996.

(g) Requires that the transportation expenditure reporting system allow a person to compare information produced by that system to information produced by the product information reporting system.

Sec. 201.809. STATEWIDE TRANSPORTATION REPORT. (a) Requires TxDOT annually to evaluate and publish a report about the status of each transportation goal for this state. Requires that the report include information about the progress of each long-term transportation goal that is identified by the statewide transportation plan, the status of each project identified as a major priority, a summary of the number of statewide project implementation benchmarks that have been completed, and information about the accuracy of previous TxDOT financial forecasts.

(b) Requires TxDOT to disaggregate the information in the report by legislative district and by TxDOT district.

(c) Requires TxDOT to provide a copy of the legislative district report to each member of the legislature, and at the request of a member, a TxDOT employee is required to meet with the member to explain the report.

(d) Requires TxDOT to provide a copy of each district report to the political subdivisions located in TxDOT district that is the subject of the report, including a municipality, a county, and a local transportation entity as defined by Section 201.991.

Sec. 201.810. DEPARTMENT INFORMATION CONSOLIDATION. (a) Authorizes TxDOT, to the extent practicable and to avoid duplication of reporting requirements, to combine the reports required under this subchapter with reports required under other provisions of this code.

(b) Requires TxDOT to develop a central location on TxDOT's Internet website that provides easily accessible and searchable information to the public contained in the reports required under this subchapter and other provisions of this code.

(b) Requires TxDOT, not later than September 1, 2009, to establish the central location on TxDOT's Internet website required by Section 201.810, Transportation Code, as added by this section.

SECTION 2.05. Amends Chapter 201, Transportation Code, by adding Subchapter P, as follows:

#### SUBCHAPTER P. UNIFIED TRANSPORTATION PROGRAM

Sec. 201.991. DEFINITION. Defines " local transportation entity."

Sec. 201.992. UNIFIED TRANSPORTATION PROGRAM. (a) Requires TxDOT to develop a unified transportation program covering a period of 11 years to guide the development of and authorize construction of transportation projects. Requires that the program annually identify target funding levels and list all projects that TxDOT intends to develop or begin construction of during the program period.

(b) Requires TxDOT to adopt rules that specify the criteria for selecting projects to be included in the program, define program funding categories, including categories for safety, maintenance, and mobility, and define each phase of a major transportation project, including the planning, programming, implementation, and construction phases.

(c) Requires TxDOT to publish the entire unified transportation program and summary documents highlighting project benchmarks, priorities, and forecasts in appropriate media and on TxDOT's Internet website in a format that is easily understandable by the public.

(d) Requires TxDOT, in developing the rules required by this section, to collaborate with local transportation entities.

Sec. 201.993. ANNUAL UPDATE TO UNIFIED TRANSPORTATION PROGRAM.

(a) Requires TxDOT to annually update the unified transportation program.

(b) Requires that the annual update include the annual funding forecast required by Section 201.994, the list of major transportation projects required by Section 201.995(b), and the projects included in each program priority category established by Section 201.996.

(c) Requires TxDOT to collaborate with local transportation entities to develop the annual update to the unified transportation program.

Sec. 201.994. ANNUAL FUNDING AND CASH FLOW FORECASTS. (a) Requires TxDOT annually to develop and publish a forecast of all funds TxDOT expects to receive, including funds from this state and the federal government and use that forecast to guide planning for the unified transportation program.

(b) Requires TxDOT to collaborate with local transportation entities to develop scenarios for the forecast required by Subsection (a) based on mutually acceptable funding assumptions.

(c) Requires TxDOT, not later than January 31 of each odd-numbered year, to prepare and publish a cash flow forecast for a period of 10 years.

Sec. 201.995. MAJOR TRANSPORTATION PROJECTS. (a) Requires TxDOT, by rule, to establish criteria for designating a project as a major transportation project, develop benchmarks for evaluating the progress of a major transportation project and timelines for implementation and construction of a major transportation project, and determine which critical benchmarks are required to be met before a major transportation project is authorized to enter the implementation phase of the unified transportation program.

(b) Requires TxDOT to annually update the list of projects that are designated as major transportation projects.

(c) Requires TxDOT, in adopting rules required by this section, to collaborate with local transportation entities.

Sec. 201.996. PROGRAM PRIORITY CATEGORIES. (a) Requires TxDOT, by rule, to establish categories in the unified transportation program to designate the priority of each project included in the program and to assign each project a category.

(b) Requires TxDOT to collaborate with local transportation entities when assigning each project included in the unified transportation program to a category established under Subsection (a).

(c) Requires that the highest priority category within the unified transportation program consist of projects designated as major transportation projects.

Sec. 201.997. FUNDING ALLOCATION. (a) Requires TxDOT, by rule, to establish formulas for allocating funds in each category described by Section 201.992 (b)(2) (relating to the requirement that TxDOT adopt certain rules).

(b) Requires TxDOT to update the formulas established under this section at least every five years.

Sec. 201.998. FUND DISTRIBUTION. (a) Requires TxDOT to allocate funds to TxDOT districts based on the formulas adopted under Section 201.997.

(b) Prohibits TxDOT, in distributing funds to TxDOT districts, from exceeding the cash flow forecast prepared and published under Section 201.994(c).

Sec. 201.999. WORK PROGRAM. (a) Requires each TxDOT district to develop a consistently formatted work program based on the unified transportation program covering a period of four years that contains all projects that the district proposes to implement during that period.

(b) Requires that the work program contain information regarding the progress of projects designated as major transportation projects, according to project implementation benchmarks and timelines established under Section 201.995, and a summary of the progress on other district projects.

(c) Requires TxDOT to use the work program to monitor the performance of the district and evaluate the performance of district employees.

(d) Requires TxDOT to publish the work program in appropriate media and on TxDOT's Internet website.

SECTION 2.06. Amends Chapter 472, Transportation Code, by adding Subchapter E, as follows:

#### SUBCHAPTER E. RURAL PLANNING ORGANIZATIONS

Sec. 472.051. DEFINITION. Defines "rural planning organization."

Sec. 472.052. CREATION. Requires TxDOT, to the extent practicable through the use of existing resources, to facilitate the creation of rural planning organizations in cooperation with councils of governments, municipal and county governments, and other local transportation entities. Authorizes the structure and membership of a rural planning organization to vary according to the transportation and other governmental needs of the area served by the organization.

Sec. 472.053. TRANSPORTATION PLANNING. Authorizes a rural planning organization to establish transportation priorities and approve transportation projects in the boundaries of the area served by the organization, select projects for inclusion in the statewide transportation improvement program, and provide input to TxDOT on projects involving the connectivity of the state highway system.

Sec. 472.054. REALIGNMENT OF DEPARTMENT DISTRICTS IN RURAL AREAS. Requires TxDOT, in facilitating the creation of rural planning organizations under this subchapter, to consider whether changing its districts' boundaries to align more closely with those of existing councils of governments would better facilitate rural transportation planning.

Sec. 472.055. DEPARTMENT PARTICIPATION. Requires TxDOT to provide funds and personnel to assist rural planning organizations with rural transportation planning, and work with rural planning organizations to identify available sources of funding for rural transportation planning, which is authorized to include federal funds or transportation development credits.

### ARTICLE 3. PUBLIC INVOLVEMENT AND COMPLAINTS

SECTION 3.01. (a) Amends Section 201.801, Transportation Code, as follows:

Sec. 201.801. New heading: COMPLAINTS. (a) Requires TxDOT to maintain a system to promptly and efficiently act on complaints filed with TxDOT. Requires TxDOT to maintain information about the parties to and the subject matter of a complaint and a summary of the results of the review or investigation of the complaint and the disposition of the complaint.

(b) Creates this subsection from existing text. Requires TxDOT to make information available describing its procedures for complaint investigation and resolution, rather than to prepare and make available information relating to complaint filing and resolution by TxDOT. Deletes existing text requiring TxDOT to prepare information of public interest describing the functions of TxDOT and TxDOT's procedures by which a complaint is filed with TxDOT and resolved by DxDOT; requiring TxDOT to make the information available to the public and appropriate state agencies. Deletes existing text of existing Subsection (b) requiring TTC by rule to establish methods for notification of certain TxDOT information and authorizing TTC to provide for that notification.

(c) Deletes text of existing Subsection (c) requiring TxDOT to keep an information file about each complaint and to provide certain persons or entities information about TxDOT's policies and procedures relating to complaint investigation and resolution. Redesignates existing Subsection (d) as Subsection (c). Requires TxDOT to periodically, rather than at least quarterly and until final disposition of a written complaint that is filed with TxDOT and that TxDOT has the authority to resolve, notify the parties to the complaint of its status until final disposition, rather than notify its status unless the notice would jeopardize an undercover investigation.

(d) Requires TTC to adopt rules applicable to each division and district to establish a process to act on complaints filed with TxDOT. Deletes text of existing Subsection (e) requiring TxDOT to keep certain information with regard to each complaint filed.

(e) Requires TxDOT to develop a standard form for submitting a complaint and make the form available on its Internet website. Requires TxDOT to establish a method to submit complaints electronically.

(f) Requires TxDOT to develop a method for analyzing the sources and types of complaints and violations and establish categories for the



complaints and violations. Requires TxDOT to use the analysis to focus its information and education efforts on specific problem areas identified through the analysis.

(g) Requires TxDOT to compile certain detailed statistics and analyze trends on complaint information and complaint information on a district and a divisional basis, and report the information on a monthly basis to the division directors and district engineers and on a quarterly basis to the commissioner.

(b) Requires TxDOT to adopt rules under Section 201.801, Transportation Code, as amended by this section not later than March 1, 2010.

SECTION 3.02. Amends Subchapter J, Chapter 201, Transportation Code, by adding Section 201.811, as follows:

Sec. 201.811. PUBLIC INVOLVEMENT POLICY. (a) Requires TxDOT to develop and implement a policy for public involvement that guides and encourages public involvement with TxDOT. Requires that the policy provide for the use of public involvement techniques that target different groups and individuals, encourage continuous contact between TxDOT and persons outside TxDOT throughout the transportation decision-making process, require TxDOT to make efforts toward clearly tying public involvement to decisions made by TxDOT and providing clear information to the public about certain outcomes of public input, and apply to all public input with TxDOT, including input on statewide transportation policy-making, in connection with the environmental process relating to certain projects, and into TxDOT's rulemaking procedures.

(b) Requires TxDOT to document the ratio of positive public input to negative public input regarding all environmental impact statements as expressed by the public through TxDOT's public involvement process. Requires TxDOT to present this information to the commissioner in an open meeting and report this information on TxDOT's Internet website in a timely manner.

#### ARTICLE 4. CONTRACTING FUNCTIONS

SECTION 4.01. Amends Section 223.002, Transportation Code, as follows:

Sec. 223.002. New heading: NOTICE OF BIDS. Requires TxDOT to give, rather than publish, notice to interested person regarding the time and place at which bids on a contract will be opened and the contract awarded. Requires TxDOT, by rule, to determine the most effective method for providing the notice required by this section. Deletes existing Subsections (b) (relating to the requirement that the notice be published in a certain manner), (c) (relating to authorizing the notice to be published in two successive issues of a newspaper under certain circumstances), and (d) (relating to the requirement that the notice be published in a newspaper published in a certain county under certain circumstances).

SECTION 4.02. Amends Subchapter A, Chapter 223, Transportation Code, by adding Section 223.017, as follows:

Sec. 223.017. DESIGN-BUILD CONTRACTS FOR NONTOLLED HIGHWAY PROJECTS. (a) Defines "design-build contract."

(b) Authorizes TxDOT to enter into a design-build contract for a nontolled highway project.

(c) Requires TxDOT, notwithstanding Section 223.0041, if TxDOT enters into a design-build contract under this section, to use a competitive procurement process that provides the best value for TxDOT.

(d) Requires TxDOT to adopt rules specifying the conditions under which a design-build contract is authorized to be considered. Requires TxDOT, in developing rules, to address the size and complexity of an eligible project, the time constraints for delivery of an eligible project, the level and training of the staff required to manage an eligible project, and other factors TxDOT considers important.

SECTION 4.03. (a) Amends Subchapter E, Chapter 223, Transportation Code, by adding Section 223.211, as follows:

Sec. 223.211. APPROVAL AND CERTIFICATION. Requires that a comprehensive development agreement, including a facility agreement under a comprehensive development agreement, under which a private entity will operate a toll project or be entitled to receive revenue from the project, be reviewed by the attorney general for legal sufficiency under Section 371.051 (Attorney General Review), as added by Chapter 264 (S.B. 792), Acts of the 80th Legislature, Regular Session, 2007, and signed by the attorney general, if approved; reviewed by the comptroller of public accounts (comptroller) for financial viability and signed and certified by the comptroller if approved; and signed by the commissioner.

(b) Makes application of Section 223.211, Transportation Code, as added by this section, prospective.

#### ARTICLE 5. REGULATION OF MOTOR VEHICLE DEALERS, SALVAGE VEHICLE DEALERS, AND HOUSEHOLD GOODS CARRIERS

SECTION 5.01. (a) Amends Section 643.153, Transportation Code, by amending Subsection (b) and adding Subsections (c), (h), and (i), as follows:

(b) Requires the rules adopted by TxDOT to require a motor carrier transporting household goods to inform TxDOT whether the motor carrier has requested criminal history record information on its employees under Chapter 145 (Liability for Negligent Hiring by In-home Service Companies and Residential Delivery Companies), Civil Practice and Remedies Code.

(c) Requires TxDOT to make available to the public on TxDOT's Internet website the information received under Subsection (b)(5) (relating to the requirement for a motor carrier transporting household goods to inform TxDOT of certain information) to allow members of the public to make an informed choice when selecting a motor carrier to transport household goods. Authorizes TxDOT, for the purposes of this subsection, to require a motor carrier transporting household goods that requests criminal history record information on its employees to submit to TxDOT, at the time of the original motor carrier registration and at the renewal of the registration, documentation that the criminal history record information has been requested and obtained, is regularly updated, and is used to exclude from employment persons who have committed a serious criminal offense.

(h) Authorizes TxDOT, subject to Subsection (i), to order a motor carrier that transports household goods to pay a refund to a customer as provided in an agreement resulting from an informal settlement instead of or in addition to imposing and administrative penalty under this chapter.

(i) Prohibits the amount of a refund ordered as provided in an agreement resulting from an informal settlement from exceeding the amount the customer paid to the motor carrier for a service or the amount the customer paid for an item damaged by the motor carrier, without requiring an estimation of the actual cost of the damage. Prohibits TxDOT from requiring payment of other damages or estimate harm in a refund order.

(b) Makes application of Sections 643.153(h) and (i), Transportation Code, as added by this section, prospective.

SECTION 5.02. (a) Amends Section 643.251, Transportation Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Prohibits the aggregate penalty for the multiple violations, except as provided by Subsection (b-1), if it is found that the motor carrier knowingly committed multiple violations, from exceeding \$30,000.

(b-1) Provides that the limit on the aggregate penalty for multiple violations in Subsection (b) does not apply to a motor carrier transporting households goods.

(b) Makes application of Section 643.251, Transportation Code, as added by this section, prospective.

SECTION 5.03. Amends Subchapter F, Chapter 643, Transportation Code, by adding Sections 643.256 and 643.257, as follows:

Sec. 643.256. SUMMARY SUSPENSION. (a) Authorizes TxDOT to summarily suspend the registration of a motor carrier registered under this chapter if the motor carrier's failure to comply with this chapter or a rule adopted under this chapter is determined by TxDOT to constitute a continuing and imminent threat to the public safety and welfare.

(b) Requires TxDOT, to initiate a proceeding to take action under Subsection (a), to serve notice on the motor carrier. Requires that the notice state the grounds for summary suspension, be personally served on the motor carrier or sent to the motor carrier by certified or registered mail, return receipt requested, to the motor carrier's mailing address as it appears in TxDOT's records, and inform the motor carrier of the right to a hearing on the suspension.

(c) Provides that the suspension is effective on the date that notice is personally served or received by mail. Entitles the motor carrier to appeal the suspension in the manner provided by Section 643.2525 (Administrative Hearing Process) for the appeal of an order of the director.

Sec. 643.257. EMERGENCY CEASE AND DESIST ORDER. (a) Authorizes the executive director of TxDOT, if it appears to the executive director of TxDOT that a motor carrier who is not registered to transport household goods for compensation under Section 643.051 (Registration Required) is violating this chapter, a rule adopted under this chapter, or another state statute or rule relating to the transportation of household goods and the executive director of TxDOT determines that the unauthorized activity constitutes a clear, imminent, or continuing threat to the public health and safety, to issue an emergency cease and desist order prohibiting the motor carrier from engaging in the activity, and report the activity to a local law enforcement agency or the attorney general for prosecution.

(b) Requires that an order issued under Subsection (a) be delivered on issuance to the motor carrier affected by the order by personal delivery or registered or certified mail, return receipt requested, to the motor carrier's last known address, state the acts or practices alleged to be an unauthorized activity and require the motor carrier immediately to cease and desist from the unauthorized activity, and contain a notice that a request for hearing is authorized to be filed under this section.

(c) Authorizes a motor carrier against whom an emergency cease and desist order is directed to request a hearing before the 11th day after the date it is served on the motor carrier. Provides that if the motor carrier does not request a hearing in that time, the order is final and nonappealable as to that motor carrier. Requires

that a request for a hearing be in writing and directed to the executive director of TxDOT, and state the grounds for the request to set aside or modify the order.

(d) Requires the executive director of TxDOT, on receiving a request for a hearing, to serve notice of the time and place of the hearing by personal delivery or registered or certified mail, return receipt requested. Requires that the hearing be held not later than the 10th day after the date the executive director of TxDOT receives the request for a hearing unless the parties agree to a later hearing date. Provides that a hearing under this subsection is subject to Chapter 2001 (Administrative Procedure), Government Code.

(e) Requires the executive director of TxDOT, after the hearing, to affirm, modify, or set aside wholly or partly the emergency cease and desist order. Provides that an order affirming or modifying the emergency cease and desist order is immediately final for purposes of enforcement and appeal.

(f) Provides that an order under this section continues in effect unless the order is stayed by the executive director of TxDOT. Authorizes the executive director of TxDOT to impose any condition before granting a stay of the order.

(g) Authorizes the executive director of TxDOT to release to the public a final cease and desist order issued under this section or information regarding the existence of the order if the executive director of TxDOT determines that the release would enhance the effective enforcement of the order or will serve the public interest.

(h) Provides that a violation of an order issued under this section constitutes additional grounds for imposing an administrative penalty under this chapter.

SECTION 5.04. Amends Section 2301.654, Occupations Code, as follows:

Sec. 2301.654. PROBATION. Authorizes the board, if a suspension of a license is probated, to require the license holder to obtain specialized training so that the license holder attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.

SECTION 5.05. (a) Amends Subchapter Q, Chapter 2301, Occupations Code, by adding Sections 2301.807 and 2301.808, as follows:

Sec. 2301.807. ADMINISTRATIVE PENALTY. (a) Authorizes TxDOT to impose an administrative penalty on a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter.

(b) Prohibits the amount of an administrative penalty imposed under this section from exceeding \$5,000. Provides that each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty. Requires that the amount of the penalty be based on the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation; the economic harm to property or the environment caused by the violation; the history of previous violations; the amount necessary to deter a future violation; the threat to the public safety and welfare; efforts to correct the violation; and any other matter that justice may require.

(c) Requires TTC by rule to adopt a schedule of administrative penalties based on the criteria listed in Subsection (b) for violations subject to an administrative penalty under this section to ensure that the amount of a penalty imposed is appropriate to the violation.

(d) Authorizes the enforcement of an administrative penalty to be stayed during the time the order is under judicial review if the person pays the

penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. Authorizes a person who cannot afford to pay the penalty or file the bond to stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of TTC to contest the affidavit as provided by those rules.

(e) Authorizes the attorney general to sue to collect an administrative penalty imposed under this section. Authorizes the attorney general, in the suit, to recover, on behalf of the state, the reasonable expenses incurred in obtaining the penalty, including investigation and court costs, reasonable attorney's fees, witness fees, and other expenses.

(f) Requires that an administrative penalty collected under this section be deposited in the general revenue fund.

(g) Provides that a proceeding to impose an administrative penalty under this section is a contested case under Chapter 2001, Government Code.

Sec. 2301.808. REFUND. (a) Authorizes the director, subject to Subsection (b), to order a motor vehicle dealer to pay a refund to a consumer as provided in an agreement resulting from an informal settlement instead of or in addition to imposing an administrative penalty under this chapter.

(b) Prohibits the amount of a refund ordered as provided in an agreement resulting from an informal settlement from exceeding the amount the consumer paid to the motor vehicle dealer. Prohibits the director from requiring payment of other damages or estimating harm in a refund order.

(b) Amends Subchapter H, Chapter 2302, Occupations Code, by adding Section 2302.352, as follows:

Sec. 2302.352. ADMINISTRATIVE PENALTY. (a) Authorizes TxDOT to impose an administrative penalty on a salvage vehicle dealer licensed under this chapter who violates this chapter or a rule or order adopted under this chapter.

(b) Provides that the amount of an administrative penalty imposed under this section is prohibited from exceeding \$5,000. Provides that each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty. Requires that the amount of the penalty be based on the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation; the economic harm to property or the environment caused by the violation; the history of previous violations; the amount necessary to deter a future violation; the threat to the public safety and welfare; efforts to correct the violation; and any other matter that justice may require.

(c) Requires TTC by rule to adopt a schedule of administrative penalties based on the criteria listed in Subsection (b) for violations subject to an administrative penalty under this section to ensure that the amount of a penalty imposed is appropriated to the violation.

(d) Authorizes the enforcement of an administrative penalty to be stayed during the time the order is under judicial review if the person pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. Authorizes a person who cannot afford to pay the penalty or file the bond to stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of TTC to contest the affidavit by those rules.

(e) Authorizes the attorney general to sue to collect an administrative penalty imposed under this section. Authorizes the attorney general in the suit the to recover, on behalf of the state, the reasonable expenses incurred in obtaining the penalty, including investigation and court costs, reasonable attorney's fees, witness fees, and other expenses.

(f) Requires that an administrative penalty collected under this section be deposited in the general revenue fund.

(g) Provides that a proceeding to impose an administrative penalty under this section is a contested case under Chapter 2001, Government Code.

(c) Makes application of Section 2301.808, Occupations Code, as added by this section, prospective.

## ARTICLE 6. REGULATION OF OUTDOOR ADVERTISING

SECTION 6.01. Amends Section 391.004, Transportation Code, to require TTC to use money in the Texas highway beautification fund account (beautification account) to administer this chapter and Chapter 394 (Regulation of Outdoor Signs on Rural Roads).

SECTION 6.02. (a) Amends Subchapter A, Chapter 391, Transportation Code, by adding Section 391.006, as follows:

Sec. 391.006. COMPLAINTS; RECORDS. (a) Requires TxDOT by rule to establish procedures for accepting and resolving written complaints related to outdoor advertising under this chapter. Requires that the rules include:

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

(2) a simple form for filing complaints with TxDOT;

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

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

(b) Requires TxDOT to provide to each person who files a written complaint with TxDOT, and to each person who is the subject of a complaint, information about TxDOT's policies and procedures relating to complaint investigation and resolution.

(c) Requires TxDOT to keep an information file about each written complaint filed with TxDOT that TxDOT has authority to resolve. Requires TxDOT to keep the following information for each complaint for the purpose of enforcing this chapter: the date the complaint is filed, the name of the person filing the complaint, the subject matter of the complaint, each person contacted in relation to the complaint, a summary of the results of the review or investigation of the complaint, and if TxDOT does not take action on the complaint, an explanation of the reasons that action was not taken.

(d) Requires TxDOT, if a written complaint is filed with TxDOT that TxDOT has authority to resolve, at least quarterly and until final disposition of the complaint, to notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an ongoing TxDOT investigation.

(b) Requires TTC to adopt rules under Section 391.006, Transportation Code, as added by this section, not later than September 1, 2010.

SECTION 6.03. Amends Subchapter B, Chapter 391, Transportation Code, by adding Section 391.0331, as follows:

Sec. 391.0331. COSTS OF REMOVAL OF CERTAIN OUTDOOR ADVERTISING IN MUNICIPALITY. Requires a municipality, if outdoor advertising located in the municipality is required to be removed because of the widening, construction, or reconstruction of a road to which this chapter applies and if relocation of the outdoor advertising would be allowed under TTC rules but is prohibited by charter, ordinance, or a decision of the municipality, to pay just compensation to the owner for the right, title leasehold, and interest in the outdoor advertising; and the owner or, if appropriate, the lessee of the real property on which the outdoor advertising is located for the right to erect and maintain the outdoor advertising.

SECTION 6.04. Amends Section 391.035(c), Transportation Code, to require that a penalty collected under this section be deposited to the credit of the Texas highway beautification fund account, rather than state highway fund, if collected by the attorney general and to the credit of the county road and bridge fund of the county in which the violation occurred if collected by a district or county attorney.

SECTION 6.05. Amend Subchapter B, Chapter 391, Transportation Code, by adding Section 391.0355, as follows:

Sec. 391.0355. ADMINISTRATIVE PENALTY. (a) Authorizes TTC, in lieu of a suit to collect a civil penalty after notice and an opportunity for a hearing before TTC, to impose an administrative penalty against a person who violates this chapter or a rule adopted by TTC under this chapter. Provides that each day a violation continues is a separate violation.

(b) Prohibits the amount of the administrative penalty from exceeding the maximum amount of a civil penalty under Section 391.035.

(c) Provides that a proceeding under this section is a contested case under Chapter 2001, Government Code.

(d) Provides that judicial review of an appeal of an administrative penalty imposed under this section is under the substantial evidence rule.

(e) Requires that an administrative penalty collected under this section be deposited to the credit of the beautification fund account.

SECTION 6.06. Amends Section 391.063, Transportation Code, to authorize TTC to set the amount of a license fee according to a scale graduated by the number of units of outdoor advertising and number of off-premise signs under Chapter 394 owned by a license applicant.

SECTION 6.07. Amends Section 391.065(b), Transportation Code, to require TTC, for the efficient management and administration of this chapter and to reduce the number of employees required to enforce this chapter, to adopt rules for issuing standardized forms that are for submission by license holders and applicants and that provide for an accurate showing of the number, location, or other information required by TTC for each license holder's or applicant's outdoor advertising or off-premise signs under Chapter 394.

SECTION 6.08. Amends Section 391.066, Transportation Code, by adding Subsection (d), to authorize TTC to deny the renewal of a license holder's license if the license holder has not complied with the permit requirements of this chapter or Chapter 394.

SECTION 6.09. Amends Subchapter C, Chapter 391, Transportation Code, by adding Section 391.0661, as follows:

Sec. 391.0661. APPLICABILITY OF LICENSE. Provides that in addition to authorizing a person to erect or maintain outdoor advertising, a license issued under this chapter authorizes a person to erect or maintain an off-premium sign under Chapter 394.

SECTION 6.10. Amends Section 391.254(c), Transportation Code, to require that a civil penalty collected by the attorney general under this section be deposited to the credit of the beautification account, rather than the state highway fund.

SECTION 6.11. Amends Section 394.005, Transportation Code, to require that money TTC receives under this chapter be deposited to the credit of the beautification fund account, rather than requiring that a registration fee collected under Section 394.048 be deposited to the credit of the state highway fund.

SECTION 6.12. (a) Amends Subchapter A, Chapter 394, Transportation Code, by adding Section 394.006, as follows:

Sec. 394.006. COMPLAINTS; RECORDS. (a) Requires TxDOT by rule to establish procedures for accepting and resolving written complaints related to signs under this chapter. Requires that the rules include:

- (1) a process to make information available describing its procedures for complaint investigation and resolution, including making information about the procedures available on TxDOT's Internet website;
- (2) a simple form for filing complaints with TxDOT;
- (3) a system to prioritize complaints so that the most serious complaints receive attention before less serious complaints; and
- (4) a procedure for compiling and reporting detailed annual statistics about complaints.

(b) Requires TxDOT to provide to each person who files a written complaint with TxDOT, and to each person who is the subject of a complaint, information about TxDOT's policies and procedures relating to complaint investigation and resolution.

(c) Requires TxDOT to keep an information file about each written complaint filed with TxDOT that TxDOT has authority to resolve. Requires TxDOT to keep the following information for each complaint for the purpose of enforcing this chapter the date the complaint is filed, the name of the person filing the complaint, the subject matter of the complaint, each person contacted in relation to the complaint, a summary of the results of the review or investigation of the complaint, and if TxDOT does not take action on the complaint, an explanation of the reasons that action was not taken.

(d) Requires TxDOT, at least quarterly and until final disposition of the complaint, if a written complaint is filed with TxDOT that TxDOT has authority to resolve, to notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an ongoing TxDOT investigation.

(b) Requires TTC to adopt rules under Section 394.006, Transportation Code, as added by this section, not later than September 1, 2010.

SECTION 6.13. Amends Subchapter A, Chapter 394, Transportation Code, by adding Section 394.007, as follows:



Sec. 394.007. COSTS FOR REMOVAL OF SIGNS IN EXTRATERRITORIAL JURISDICTION OF CERTAIN MUNICIPALITIES. (a) Provides that this section applies only to a sign located in the extraterritorial jurisdiction of a municipality that regulates signs in its extraterritorial jurisdiction.

(b) Requires the municipality, if a sign is required to be removed because of the widening, construction, or reconstruction of a road to which this chapter applies and if relocation of the sign would be allowed under TTC rules but is prohibited by charter, ordinance, or a decision of the municipality, to pay just compensation to the owner for the right, title leasehold, and interest in the sign; and the owner or, if appropriate, the lessee of the real property on which the sign is located for the right to erect and maintain the sign.

SECTION 6.14. Amends the heading to Subchapter B, Chapter 394, Transportation Code, to read as follows:

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

SECTION 6.15. (a) Amends Subchapter B, Chapter 394, Transportation Code, by adding Sections 394.0201-394.0207 and 394.027-394.029, as follows:

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

(b) Provides that an offense under this section is a misdemeanor punishable by a fine or not less than \$500 or more than \$1,000. Provides that each day of the proscribed conduct is a separate offense.

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

Sec. 394.0202. ISSUANCE AND PERIOD OF LICENSE. (a) Requires TTC to issue a license to a person who files with TTC a completed application form within the time specified by TTC, pays the appropriate license fee, and files with TTC a surety bond.

(b) Authorizes a license to be issued for one year or longer.

(c) Requires TTC, at least 30 days before the date on which a person's license expires, to notify the person of the impending expiration. Requires that the notice be in writing and sent to the person's last known address according to the records of TTC.

Sec. 394.0203. LICENSE FEE. Authorizes TTC to set the amount of a license fee according to a scale graduated by the number of off-premium signs and units of outdoor advertising under Chapter 391 (Highway Beautification on Interstate and Primary Systems and Certain Roads) owned by a license applicant.

Sec. 394.0204. SURETY BOND. (a) Requires that the surety bond required of an applicant for a license under Section 394.0202, be in the amount of \$2,500 for each county in the state in which the person erects or maintains an off-premium sign, and payable to TTC for reimbursement for removal costs of an off-premium sign that the license holder unlawfully erects or maintains.

(b) Prohibits a person from being required to provide more than \$10,000 in surety bonds.

Sec. 394.0205. RULES; FORMS. (a) Authorizes TTC to adopt rules to implement Sections 394.0201(a), 394.0202, 394.0203, 394.0204, and 394.0206.

(b) Requires TTC, for the efficient management and administration of this chapter and to reduce the number of employees required to enforce this chapter, to adopt rules for issuing standardized forms that are for submission by license holders and applicants and that provide for an accurate showing of the number, location, or other information required by TTC for each license holder's or applicant's off-premise signs or outdoor advertising under Chapter 391.

(c) Prohibits TTC from adopting a rule under this chapter that restricts competitive bidding or advertising by the holder of a license issued under this chapter other than a rule to prohibit false, misleading, or deceptive practices. Provides that the limitation provided by this section applies only to rules relating to the occupation of outdoor advertiser and does not affect TTC's power to regulate the orderly and effective display of an off-premise sign under this chapter. Prohibits a rule prohibiting false, misleading, or deceptive practices from restricting the use of any legal medium for an advertisement; the license holder's advertisement under a trade name; the license holder's personal appearance or voice in an advertisement, if the license holder is an individual; or relate to the size or duration of an advertisement by the license holder.

Sec. 394.0206. REVOCATION OR SUSPENSION OF LICENSE; APPEAL. (a) Authorizes TTC to revoke or suspend license issued under this subchapter or place on probation a license holder whose license is suspended if the license holder violates this chapter or a rule adopted under this chapter. Authorizes TxDOT, if the suspension of the license is probated, to require the license holder to report to TTC on any matter that is the basis of the probation.

(b) Requires that the judicial appeal of the revocation or suspension of a license be not later than the 15th day after the date of TTC's action.

(c) Authorizes TTC to adopt rules for the reissuance of a revoked or suspended license and to set fees for the reissuance.

(d) Authorizes TTC to deny the renewal of a license holder's existing license if the license holder has not complied with the permit requirements of this chapter or Chapter 391.

Sec. 394.0207. APPLICABILITY OF LICENSE. Provides that in addition to authorizing a person to erect or maintain an off-premise sign, a license issued under this chapter authorizes a person to erect or maintain outdoor advertising under Chapter 391.

Sec. 394.027. FEE AMOUNTS. Prohibits the license and permit fees required by this subchapter from exceeding an amount reasonably necessary to cover the administrative costs incurred to enforce this chapter.

Sec. 394.028. EXCEPTIONS FOR CERTAIN NONPROFIT ORGANIZATIONS. (a) Prohibits the combined license and permit fees under this subchapter from exceeding \$10 for an off-premise sign erected and maintained by a nonprofit organization in a municipality or a municipality's extraterritorial jurisdiction if the sign relates to or promotes only the municipality or a political subdivision whose jurisdiction is wholly or partly concurrent with the municipality.

(b) Provides that the nonprofit organization is not required to file a bond as provided by Section 394.0202(a)(3).

Sec. 394.029. DENIAL OF PERMIT; APPEAL. Authorizes TTC to create a process by which an applicant is authorized to appeal a denial of a permit under this subchapter.

(b) Makes application of Section 394.0201, Transportation Code, as added by this section, prospective.

SECTION 6.16. Amends Section 394.050, Transportation Code, as follows:

Sec. 394.050. New heading: VARIANCE. Authorizes the executive director or a person designated by the executive director, rather than requires TTC to provide for a board of variance that, in an appropriate case and subject to an appropriate condition or safeguard, to make a special exception to this chapter regarding a permit for an off-premise outdoor sign on a rural road.

SECTION 6.17. Amends Section 394.081(c), Transportation Code, to require that a civil penalty collected under this section be deposited to the credit of the beautification fund account, rather than the state highway, if collected by the attorney general and to the credit of the county road and bridge fund, if collected by a district or county attorney.

SECTION 6.18. Amends Sections 394.082(a), (d), and (e), Transportation Code, as follows:

(a) Authorizes TTC, in lieu of a suit to collect a civil penalty, after notice and an opportunity for a hearing before TTC, to impose an administrative penalty against a person who violates, rather than intentionally violates, this chapter or a rule adopted by TTC under this chapter.

(d) Provides that judicial review of an appeal of an administrative penalty imposed under this section is under substantial evidence rule, rather than by trial de novo.

(e) Requires that an administrative penalty collected under this section be deposited to the credit of the beautification account, rather than the state highway fund.

## ARTICLE 7. GREEN RIBBON PROJECT

SECTION 7.01. Amends Subchapter I, Chapter 201, Transportation Code, by adding Section 201.708, as follows:

Sec. 201.708. EXPENDITURES FOR HIGHWAY LANDSCAPING. (a) Requires TxDOT, for each contract for a highway project that is located in an area designated by the United States Environmental Protection Agency (EPA) as a nonattainment or near-nonattainment area under Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407), to allocate to the district or districts in which the project is to be located one-half of one percent of the total amount to be spent under the contract for construction, maintenance, and improvement of the project to be used for landscaping improvements for the project to be used for landscaping improvements for the project or other projects in the district or districts.

(b) Authorizes landscaping improvements to include planting of indigenous or adapted trees and other plants that are suitable for the climate in the area, and preparing the soil and installing irrigation systems for the growth of trees and plants.

SECTION 7.02. Amends Chapter 371, Transportation Code, as added by Chapter 103 (H.B. 570), Acts of the 80th Legislature, Regular Session, 2007, by adding Subchapter C, as follows:

### SUBCHAPTER C. CONSTRUCTION, IMPROVEMENT, AND MAINTENANCE

Sec. 371.101. EXPENDITURES FOR TOLL PROJECT LANDSCAPING. (a) Requires a toll project entity, for each contract for a toll project that is located in an area designated by EPA as a nonattainment or near-attainment area under Section 107(d) of

the federal Clean Air Act (42 U.S.C. Section 7407), to allocate to the district or districts in which the project is to be located one-half of one percent of the total amount to be spent under the contract for construction, maintenance, and improvement of the project to be used for landscaping improvements for the project to be used for landscaping improvements for the project or other projects in the district or districts.

(b) Authorizes landscaping improvements to include planting of indigenous or adapted trees and other plants that are suitable for the climate in the area, and preparing the soil and installing irrigation systems for the growth of trees and plants.

## ARTICLE 8. TEXAS DEPARTMENT OF MOTOR VEHICLES

### PART 1. GENERAL PROVISIONS

SECTION 8.1.01. Amends Title 7, Transportation Code, by adding Subtitle M, as follows:

#### SUBTITLE M. TEXAS DEPARTMENT OF MOTOR VEHICLES

##### CHAPTER 1001. ORGANIZATION OF DEPARTMENT

###### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1001.101. DEFINITIONS. Defines "board" and "department."

Sec. 1001.102. CREATION OF DEPARTMENT; DUTIES. (a) Provides that the Texas Department of Motor Vehicles (DMV) is created as an agency of this state.

(b) Requires DMV, in addition to the other duties of DMV, to administer and enforce Subtitle A (Certificates of Title and Registration of Vehicles); Subtitle E (Vehicle Size and Weight), Title 7 (Vehicles and Traffic); Chapters 642 (Identifying Markings on Commercial Motor Vehicles), 643 (Motor Carrier Registration), 645 (Single State Registration), 646 (Motor Transportation Brokers), and 648 (Foreign Commercial Motor Transportation); Chapters 2301 (Sale or Lease of Motor Vehicles) and 2302 (Salvage Vehicle Dealers), Occupations Code; and Article 4413(37) (Automobile Burglary and Theft Prevention Authority), Revised Statutes.

Sec. 1001.003. COMPOSITION OF DEPARTMENT. Provides that DMV is composed of an executive director appointed by the board of DMV (board) and other employees required to efficiently implement this subtitle, other applicable vehicle laws of this state, and other laws that grant jurisdiction to or are applicable to DMV.

Sec. 1001.004. DIVISION. Requires the board to organize DMV into divisions to accomplish DMV's functions and the duties assigned to it, including divisions for administration, automobile burglary and theft prevention, motor carriers, motor vehicle board, and vehicle titles and registration.

Sec. 1001.005. SUNSET PROVISION. Provides that DMV is subject to Chapter 325 (Sunset Law), Government Code. Provides that unless continued in existence as provided by that chapter, DMV is abolished September 1, 2015.

[Reserves Sections 1001.006-1001.020 for expansion.]

###### SUBCHAPTER B. BOARD OF DEPARTMENT OF MOTOR VEHICLES

Sec. 1001.021. BOARD. (a) Provides that the board consists of seven members appointed by the governor with the advice and consent of the senate. Requires that appointments to the board be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(b) Requires that two members be appointed to represent motor vehicle dealers; one member be appointed to represent county tax-assessor-collectors; one member be appointed to represent the motor carrier industry; one member be appointed to represent law enforcement agencies; and two members be appointed to represent the general public. Prohibits the member appointed to represent law enforcement agencies from being a state employee.

(c) Prohibits a person from being a public member of the board if the person or the person's spouse is registered, certified, or licensed by DMV; is employed by or participates in the management of a business entity or other organization regulated by or receiving money from DMV; owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from DMV; or uses or receives a substantial amount of tangible goods, services, or money from DMV other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

Sec. 1001.022. **TERMS.** Provides that members of the board serve staggered six-year terms, with the terms of either one or two members expiring February 1 of each odd-numbered year.

Sec. 1001.023. **PRESIDING OFFICER OF BOARD.** (a) Require the governor to designate a member of the board as the presiding officer of the board to serve in that capacity at the pleasure of the governor.

(b) Requires the presiding officer to preside over board meetings, make rulings on motions and points of order, and determine the order of business; create subcommittees, appoint board members to subcommittees, and receive the reports of subcommittee to the board as a whole; and appoint a member of the board to act in the presiding officer's absence.

Sec. 1001.024. **BOARD MEETINGS.** Requires the board to hold regular meetings at least once a month and special meetings at the call of the presiding officer. Requires that board members attend the meetings of the board. Requires the presiding officer to oversee the preparation of an agenda for each meeting and ensure that a copy is provided to each board member at least seven days before the meeting.

Sec. 1001.025. **COMPENSATION.** Provides that a member of the board is not entitled to compensation, but each member is entitled to reimbursement for actual and necessary expenses as provided by the General Appropriations Act.

Sec. 1001.026. **GROUND FOR REMOVAL.** (a) Provides that it is a ground for removal from the board that a board member does not have at the time of taking office the qualifications required by Section 1001.021; does not maintain during service on the board the qualifications required by Section 1001.021; is ineligible for membership under Section 1001.021(c), 1007.002, or 1007.003; cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(b) Provides that the validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) Requires the executive director of DMV, if the executive director has knowledge that a potential ground for removal exists, to notify the presiding officer of the board of the potential ground. Requires the presiding officer to then notify the governor and the attorney general that a potential ground for removal exists. Requires the executive director, if the potential ground for removal involves the presiding officer, to notify the next highest ranking officer of the

board, who is then required to notify the governor and the attorney general that a potential ground for removal exists.

Sec. 1001.027. TRAINING ON DEPARTMENT AND CERTAIN LAWS RELATING TO DEPARTMENT. (a) Prohibits a person who is appointed to and qualifies for office as a member of the board from voting, deliberating, or being counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) Requires that the training program provide the person with information regarding the legislation that created DMV; the programs, functions, rules, and budget of DMV; the results of the most recent formal audit of DMV; the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and any applicable ethics policies adopted by DMV or the Texas Ethics Commission.

(c) Entitles a person appointed to the board to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Sec. 1001.028. TECHNOLOGICAL SOLUTIONS. Requires the board to implement a policy requiring DMV to use appropriate technological solutions to improve DMV's ability to perform its functions. Requires that the policy ensure that the public is able to interact with DMV on the Internet.

Sec. 1001.029. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) Requires the board to develop and implement a policy to encourage the use of negotiated rulemaking procedures under Chapter 2008 (Negotiated Rulemaking), Government Code, for the adoption of DMV rules; and appropriate alternative dispute resolution procedures under Chapter 2009 (Alternative Dispute Resolution for Use by Governmental Bodies), Government Code, to assist in the resolution of internal and external disputes under DMV's jurisdiction.

(b) Requires that DMV's procedures relating to alternative dispute resolution conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) Requires the board to designate a trained person to coordinate the implementation of the policy adopted under Subsection (a); serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and collect data concerning the effectiveness of those procedures, as implemented by DMV.

[Reserves Sections 1001.030-1001.040 for expansion.]

#### SUBCHAPTER C. PERSONNEL

Sec. 1001.041. DIVISION OF RESPONSIBILITIES. Requires the board to develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the executive director and the staff of DMV.

#### CHAPTER 1002. RULES

Sec. 1002.001. GENERAL RULEMAKING AUTHORITY. Authorizes the board to adopt any rules necessary and appropriate to implement the powers and duties of DMV under this code and other laws of this state.

[Reserves Chapters 1003-1005 for expansion.]

## CHAPTER 1006. PUBLIC ACCESS

Sec. 1006.001. ACCESS TO PROGRAMS AND FACILITIES. (a) Requires DMV to prepare and maintain a written plan that describes how a person who does not speak English may be provided reasonable access to DMV's programs.

(b) Requires DMV to comply with federal and state laws for program and facility accessibility.

Sec. 1006.002. PUBLIC COMMENT. Requires the board to develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of DMV.

Sec. 1006.003. COMPLAINT PROCEDURES. (a) Requires DMV to maintain a system to promptly and efficiently act on complaints filed with DMV. Requires DMV to maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) Requires DMV to make information available describing its procedures for complaint investigation and resolution.

(c) Requires DMV to periodically notify the complaint parties of the status of the complaint until final disposition.

## CHAPTER 1007. STANDARDS OF CONDUCT

Sec. 1007.001. APPLICATION OF LAW RELATING TO ETHICAL CONDUCT. Provides that the board, the executive director, and each employee or agent of DMV is subject to the code of ethics and the standard of conduct imposed by Chapter 572 (Personal Financial Disclosure, Standards of Conduct, and Conflict of Interest), Government Code, and any other law regulating the ethical conduct of state officers and employees.

Sec. 1007.002. CONFLICTS OF INTEREST. (a) Defines "Texas trade association."

(b) Prohibits a person from being a member of the board and from being a DMV employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the Federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if the person is an officer, employee, or paid consultant of a Texas trade association in the motor vehicle or motor carrier industry or of a tax assessor-collector or law enforcement trade association; or the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the motor vehicle or motor carrier industry or of a tax assessor-collector or law enforcement trade association.

(c) Prohibits a person from being a member of the board or acting as the general counsel to the board or DMV if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of DMV.

Sec. 1007.003. LOBBYING ACTIVITIES. Prohibits a person from serving as the executive director or acting as the general counsel to DMV if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of an occupation related to the operation of DMV.

## PART 2. TRANSFER OF DUTIES AND FUNCTIONS OF THE TEXAS DEPARTMENT OF TRANSPORTATION

### SUBPART A. GENERAL PROVISIONS AND ADMINISTRATION

SECTION 8.2A.01. Amends Section 201.931(2), Transportation Code, to redefine "license."

#### SUBPART B. STATE HIGHWAY TOLL PROJECTS

SECTION 8.2B.01. Amends Sections 228.055(b) and (h), Transportation Code, as follows:

(b) Requires DMV to send a written notice of nonpayment to the registered owner of the vehicle at that owner's address as shown in the vehicle registration records of DMV, rather than the department, by first class mail and authorizes DMV to require payment not sooner than the 30th day after the date the notice was mailed.

(h) Redefines "registered owner."

SECTION 8.2B.02. Amends Section 228.056(b), Transportation Code, to provide that in the prosecution of an offense under Section 228.055(c) (relating to the owner of a vehicle committing an offense under a certain circumstances), (d) (relating to an exception to Subsection (a) or (e) (relating to an exception the application of Subsection (a) or (c)) a computer record of DMV, rather than the department, of the registered owner of the vehicle is prima facie evidence of its contents and that the defendant was the registered owner of the vehicle when the underlying event of nonpayment under Section 228.054 (Failure or Refusal to Pay Toll; Offense) occurred.

#### SUBPART C. CAUSEWAYS, BRIDGES, TUNNELS, TURNPIKES, FERRIES, AND HIGHWAYS IN CERTAIN COUNTIES

SECTION 8.2C.01. Amends Sections 284.0701(b), (e), and (h), Transportation Code, as follows:

(b) Requires the county to send a written notice of nonpayment to the registered owner of the vehicle at that owner's address as shown in the vehicle registration records of DMV, rather than the department, by first-class mail not later than the 30th day after the date of the alleged failure to pay and authorizes the county to require payment not sooner than the 30th day after the date the notice was mailed.

(e) Makes a conforming change.

(h) Redefines "registered owner."

#### SUBPART D. CERTIFICATE OF TITLE ACT

SECTION 8.2D.01. Amends Section 501.002(3), Transportation Code, to redefine "department."

#### SUBPART E. REGISTRATION OF VEHICLES

SECTION 8.2E.01. Amends Section 502.001(3), Transportation Code, to make a conforming change.

SECTION 8.2E.02. Amends Sections 502.053(a) and (b), Transportation Code, as follows:

(a) Requires DMV, rather than TxDOT, to reimburse the Texas Department of Criminal Justice (TDCJ) for the cost of manufacturing license plates or registration insignia as the license plates or insignia and the invoice for the license plates or insignia are delivered to DMV, rather than TxDOT.

(b) Makes a conforming change.

#### SUBPART F. DEALER'S AND MANUFACTURER'S VEHICLE LICENSE PLATES



SECTION 8.2F.01. Amends Section 503.001(5), Transportation Code, to make a conforming change.

SECTION 8.2F.02. Amends Section 503.003, Transportation Code, as follows:

Sec. 503.003. DISPLAY OR SALE OF NONMOTORIZED VEHICLE OR TRAILER. Provides that this chapter does not prohibit the display or sale of a nonmotorized vehicle or trailer at a regularly scheduled vehicle or boat show with multiple vendors in accordance with rules of the board of DMV (board), rather than TTC rules.

SECTION 8.2F.03. Amends Section 503.009(c), Transportation Code, to provide that a decision or final order issued under this section is final and is prohibited from being appealed, as a matter of right, to the board, rather than TTC.

SECTION 8.2F.04. Amends Sections 503.010 and 503.011, Transportation Code, as follows:

Sec. 503.010. TERM OF GENERAL DISTINGUISHING NUMBER, LICENSE, OR LICENSE PLATE. Provides that each general distinguishing number, license, or license plate issued under this chapter is valid for the period prescribed by the board, rather than TTC.

Sec. 503.011. PROBATING FEES. Requires the board, rather than TTC, if the board, rather than TTC, prescribes the term of a general distinguishing number, license, or license plate under this chapter for a period other than one year, to prorate the applicable annual fee required under this chapter as necessary to reflect the term of the number, license, or license plate.

SECTION 8.2F.05. Amends Section 503.031(a), Transportation Code, to require an applicant for a drive-a-way in-transit license to submit to the board, rather than TTC, an application containing the information required by the board, rather than TTC.

SECTION 8.2F.06. Repealer: Section 503.001(2) (relating to the meaning of "commission"), Transportation Code.

#### SUBPART G. MISCELLANEOUS PROVISIONS

SECTION 8.2G.01. Amends Section 520.001, Transportation Code, to make a conforming change.

#### SUBPART H. OPERATION OF BICYCLES, MOPEDS, AND PLAY VEHICLES

SECTION 8.2H.01. Amends Section 551.302, Transportation Code, as follows:

Sec. 551.302. REGISTRATION. Authorizes DMV, rather than TxDOT, to adopt rules relating to the registration and issuance of license plates to neighborhood electric vehicles.

#### SUBPART I. MOTOR VEHICLE SAFETY RESPONSIBILITY ACT

SECTION 8.2I.01. Amends Section 601.023, Transportation Code, as follows:

Sec. 601.023. PAYMENT OF STATUTORY FEES. Authorizes the Department of Public Safety to pay a statutory fee required by DMV, rather than TxDOT, for a certified abstract or in connection with suspension of a vehicle registration.

SECTION 8.2I.02. Amends Section 601.451, Transportation Code, as added by Chapter 892 (S.B. 1670), Acts of the 79th Legislature, Regular Session, 2005, to redefine "implementing agencies."

SECTION 8.2I.03. Repealer: Subchapter N (Database Interface System to Verify Financial Responsibility), Chapter 601 (Motor Vehicle Safety Responsibility Act), Transportation Code, as added by Chapter 1325 (H.B. 3588), Acts of the 78th Legislature, Regular Session, 2003.

**SUBPART J. GENERAL PROVISIONS RELATING TO VEHICLE SIZE AND WEIGHT**

SECTION 8.2J.01. Amends Sections 621.001(2), (3), and (4), Transportation Code, to redefine "board," "department," and "commissioner."

SECTION 8.2J.02. Amends Section 621.003(a), Transportation Code, to authorize the board, rather than TTC, by rule to authorize the commissioner, rather than the director, to enter into with the proper authority of another state an agreement that authorizes certain actions.

SECTION 8.2J.03. Amends Section 621.004, Transportation Code, to provide that in each civil or criminal proceeding in which a violation of this chapter may be an issue, a certificate of the vertical clearance of a structure, including a bridge or underpass, signed by the commissioner, rather than the director, is admissible in evidence for all purposes.

SECTION 8.2J.04. Amends Subchapter A, Chapter 621, Transportation Code, by adding Section 621.008, as follows:

**Sec. 621.008. STUDY REGARDING OVERSIZE AND OVERWEIGHT VEHICLES.**

(a) Defines "division."

(b) Requires the motor carrier division (division) of DMV to conduct a study to determine improvements to the regulation of oversize and overweight vehicles.

(c) Requires the division, in conducting the study, to consider prohibiting overweight vehicles or vehicle combinations from traveling on state highways if the vehicle or combination will cause damage to a road or bridge, based on the weight or load specifications to which the road or bridge was built; requiring each applicant for a permit under Chapter 623 (Permits for Oversize or Overweight Vehicles) to pay a graduated highway maintenance fee based on weight and the amount of damage done by the permitted vehicle or vehicle combination to roads and bridges; requiring each fee collected for an overweight or oversize vehicle permit to be deposited in the state highway fund; and eliminating all exemptions for overweight vehicles.

(d) Requires the division, not later than September 1, 2010, to report the results of the study conducted under this section to the governor, the lieutenant governor, the speaker of the house of representatives, and the appropriate oversight committee of each house of the legislature.

(e) Provides that this section expires September 1, 2011.

SECTION 8.2J.05. Amends Section 621.102, Transportation Code, as follows:

**Sec. 621.102. New heading: BOARD'S AUTHORITY TO SET MAXIMUM WEIGHTS.** (a) Authorizes the board, rather than TTC, to set certain weights. Makes a conforming change.

(b)-(f) Makes conforming changes.

(g) Makes no changes to this subsection.

SECTION 8.2J.06. Amends the heading to Section 621.202, Transportation Code, to read as follows:

**Sec. 621.202. BOARD'S AUTHORITY TO SET MAXIMUM WIDTH**

SECTION 8.2J.07. Amends Section 621.202(a), Transportation Code, to authorize the board, rather than TTC, by order to comply with safety and operational requirements of federal law, to set the maximum width of a vehicle.

SECTION 8.2J.08. Amends Section 621.301(b), Transportation Code, to authorize the commissioners court to limit the maximum weight to be moved on or over a county road, bridge, or culvert by exercising its authority under this subsection in the same manner and under the same conditions provided by Section 621.102 for the board, rather than TTC, to limit maximum weights on highways and roads to which that section applies.

SECTION 8.2J.09. Amends Section 621.352(a), Transportation Code, to authorize the board by rule, rather than TTC, to establish fees for the administration of Section 621.003 in a certain amount.

SECTION 8.2J.10. Amends Section 621.356, Transportation Code, to authorize the board, rather than TTC, to adopt rules prescribing the method for payment of a fee for a permit issued by DMV that authorizes the operation of a vehicle and its load or a combination of vehicles and load exceeding size or weight limitation. Makes a conforming change.

#### SUBPART K. SPECIAL PROVISIONS AND EXCEPTIONS FOR OVERSIZE OR OVERWEIGHT VEHICLES

SECTION 8.2K.01. Amends Section 622.001, Transportation Code, to make a conforming change.

SECTION 8.2K.02. Amends Section 622.101(a), Transportation Code, to prohibit a single motor vehicle used for certain purposes from being operated on a highway or road if the vehicle is wider than 10 feet and the highway has not been designated by the board, rather than TTC.

#### SUBPART L. PERMITS FOR OVERSIZE OR OVERWEIGHT VEHICLES

SECTION 8.2L.01. Amends Section 623.001, Transportation Code, by amending Subdivision (1) and adding Subdivision (4), to make conforming changes.

SECTION 8.2L.02. Amends Section 623.051, Transportation Code, as follows:

Sec. 623.051. CONTRACT ALLOWING OVERSIZE OR OVERWEIGHT VEHICLE TO CROSS ROAD; SURETY BOND. (a) Authorizes a person to operate a certain vehicle in a certain manner if the person contracts with the Texas Transportation Commission (TTC), rather than the commission.

(b)-(d) Makes conforming changes.

SECTION 8.2L.03. Amends Sections 623.076(b) and (c), Transportation Code, as follows:

(b) Authorizes the board, rather than TTC, to adopt rules for the payment of a fee under Subsection (a). Makes a conforming change.

(c) Makes a conforming change.

SECTION 8.2L.04. Amends Sections 623.145, 623.146, 623.195, 623.196, 623.232, and 623.239, Transportation Code, as follows:

Sec. 623.145. RULES; FORMS AND PROCEDURES; FEES. (a) Requires the board, rather than TTC, by rule to provide for the issuance of permits under this subchapter. Makes conforming changes.

(b) Makes a conforming change.

Sections 623.146, 623.195, 623.196, 623.232, and 623.239. Makes conforming changes.

SECTION 8.2L.05. Amends Section 623.252(a), Transportation Code, to authorize the board, rather than TTC, to authorize the county to issue permits for the movement of oversize or overweight vehicles carrying cargo on state highways located in Chambers County.

SECTION 8.2L.06. Amends Section 623.259, Transportation Code, to authorize the board, rather than TTC, to adopt rules necessary to implement this subchapter.

#### SUBPART M. IDENTIFYING MARKINGS ON CERTAIN COMMERCIAL MOTOR VEHICLES

SECTION 8.2M.01. Amends Section 642.002(d), Transportation Code, to authorize DMV by rule, rather than TxDOT, to prescribe additional requirements regarding the form of certain markings.

#### SUBPART N. MOTOR CARRIER REGISTRATION

SECTION 8.2N.01. Amends Section 643.001(1), Transportation Code, to make a conforming change.

#### SUBPART O. SINGLE STATE REGISTRATION

SECTION 8.2O.01. Amends Section 645.001, Transportation Code, to authorize DMV, rather than TxDOT, to the fullest extent practicable, to participate in a federal motor carrier registration program under the unified carrier registration system as defined by Section 643.001 (Definitions) or a single state registration system established under federal law. Makes nonsubstantive changes.

#### SUBPART P. MOTOR TRANSPORTATION BROKERS

SECTION 8.2P.01. Amends Section 646.003(a), Transportation Code, to prohibit a person from acting as a motor transportation broker unless the person provides a bond to DMV, rather than TxDOT.

#### SUBPART Q. FOREIGN COMMERCIAL MOTOR TRANSPORTATION

SECTION 8.2Q.01. Amends Section 648.002, Transportation Code, to authorize DMV, rather than TxDOT, DPS, and the Texas Department of Insurance, in addition to rules required by this chapter, to adopt other rules to carry out this chapter.

#### SUBPART R. ABANDONED MOTOR VEHICLES

SECTION 8.2R.01. Amends Section 683.001(1), Transportation Code, to make a conforming change.

#### SUBPART S. CONTRACT FOR ENFORCEMENT OF CERTAIN ARREST WARRANTS

SECTION 8.2S.01. Amends Section 702.001(1), Transportation Code, to make a conforming change.

#### SUBPART T. PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM

SECTION 8.2T.01. Amends Section 707.001(2), Transportation Code, to redefine "owner of a motor vehicle."

SECTION 8.2T.02. Amends Section 707.011(b), Transportation Code, to require that the designated department, agency, or office of the local authority or the entity with which the local authority contracts under Section 707.003(a)(1), not later than the 30th day after the date the violation is alleged to have occurred, to mail the notice of violation to the owner at the owner's address as shown on the registration records of DMV, rather than TxDOT. Makes a conforming change.

SECTION 8.2T.03. Amends Section 707.017, Transportation Code, to authorize the county assessor-collector or DMV, rather than TxDOT, if the owner of a motor vehicle is delinquent in the payment of a civil penalty imposed under this chapter, to refuse to register a motor vehicle alleged to have been involved in the violation.

#### SUBPART U. SALE OR LEASE OF MOTOR VEHICLES

SECTION 8.2U.01. Amends Section 2301.002(9), Occupations Code, to redefine "department."

SECTION 8.2U.02. Repealer: Section 2301.002(33) (relating to the definition of "transportation commission"), Occupations Code.

#### SUBPART V. SALVAGE VEHICLE DEALERS

SECTION 8.2V.01. Amends Sections 2302.001(2) and (3), Occupations Code, to redefine "board" and "department."

SECTION 8.2V.02. Amends Section 2302.0015(b), Occupations Code, to authorize a member of the board, rather than TTC, an employee or agent of the board, rather than TTC, or DMV, a member of the Public Safety Commission, an officer of DPS, or a peace officer, for the purpose of enforcing or administering this chapter or Chapter 501 or 502, Transportation Code, at a reasonable time, to perform certain actions.

SECTION 8.2v.03. Amends the heading to Subchapter B, Chapter 2302, Occupations Code, to read as follows:

#### SUBCHAPTER B. BOARD POWERS AND DUTIES

SECTION 8.2V.04. Amends Sections 2302.051-2302.053, Occupations Code, to make conforming changes.

SECTION 8.2V.05. Amends Section 2302.108(b), Occupations Code, to make a conforming change.

SECTION 8.2V.06. Amends Section 2302.204, Occupations Code, to make a conforming change.

#### SUBPART W. AUTOMOBILE BURGLARY AND THEFT PREVENTION AUTHORITY

SECTION 8.2W.01. Amends Section 1(3), Article 4413(37), Revised Statutes, to redefine "department."

SECTION 8.2W.02. Amends Section 2, Article 4413(37), Revised Statutes, as follows:

Sec. 2. Provides that the Automobile Burglary and Theft Prevention Authority is a division in DMV, rather than is established in TxDOT. Deletes existing text providing that the authority is not an advisory body to TxDOT.

SECTION 8.2W.03. Amends Section 3(f), Article 4413(37), Revised Statutes, to provide that it is a ground for removal from the authority if a member does not have at the time of taking office, rather than at the time of appointment, certain qualifications or is absent from more than half of the regularly scheduled authority meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the authority.

SECTION 8.2W.04. Repealer: Sections 6(d) (relating to the requirement of the authority to report on its activities) and (i) (relating to the requirement of the authority to prepare a certain report), Article 4413(37), Revised Statutes.

#### PART 3. CONFORMING AMENDMENTS PERTAINING TO TEXAS DEPARTMENT OF TRANSPORTATION IN OTHER CODES

## SUBPART A. BUSINESS & COMMERCE CODE

SECTION 8.3A.01. Amends Section 51.003(b), Business & Commerce Code, as effective April 1, 2009, to redefine "business opportunity."

SECTION 8.3A.02. Amends Section 105.004(b), Business & Commerce Code, as effective April 1, 2009, to require DMV, rather than TxDOT, to provide a notice that states the provisions of this chapter to each person with a disability who is issued a certain license plate or parking placard.

## SUBPART B. CODE OF CRIMINAL PROCEDURE

SECTION 8.3B.01. Amends Section 1(1), Article 42.22, Code of Criminal Procedure, to redefine "department."

SECTION 8.3B.02. Amends Article 59.04(c), Code of Criminal Procedure, as follows:

(c) Requires the attorney representing the state, if the property is a motor vehicle, and if there is reasonable cause to believe that the vehicle has been registered under the laws of this state, to ask DMV, rather than TxDOT, to identify from its records the record owner of the vehicle and any interest holder. Makes a conforming change.

## SUBPART C. FAMILY CODE

SECTION 8.3C.01. Amends Section 157.316(b), Family Code, to provide that a lien against a motor vehicle under this subchapter is not perfected until the obligor's title to the vehicle has been surrendered to the court or Title IV-D agency and DMV, rather than TxDOT, has issued a subsequent title that discloses on its face the fact that the vehicle is subject to a child support lien under this subchapter.

SECTION 8.3C.02. Amends Section 232.0022(a), Family Code, to make conforming changes.

SECTION 8.3C.03. Amends Section 232.014(b), Family Code, to make conforming changes.

SECTION 8.3C.04. Amends Section 264.502(b), Family Code, to make conforming changes.

## SUBPART D. FINANCE CODE

SECTION 8.3D.01. Amends Section 306.001(9), Finance Code, to redefine "qualified commercial loan."

SECTION 8.3D.02. Amends Section 348.001(10-a), Finance Code, to redefine "towable recreation vehicle."

SECTION 8.3D.03. Amends Section 348.518, Finance Code, to authorize the commissioner and DMV, rather than TxDOT, to ensure consistent enforcement of law and minimization of regulatory burdens, to share information, including criminal history information, relating to a person licensed under this chapter.

## SUBPART E. GOVERNMENT CODE

SECTION 8.3E.01. Amends Section 411.122(d), Government Code, to include the Texas State Perfusionist Advisory Committee, rather than the Board of Examiners of Perfusionists, and DMV among the agencies that are subject to this section.

## SUBPART F. HEALTH AND SAFETY CODE

SECTION 8.3F.01. Amends Section 382.209(e), Health and Safety Code, to provide that a vehicle is not eligible to participate in a low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program established under this section unless the commissioners

court of the county administering the program determines that the vehicle meets the eligibility criteria adopted by TTC, DMV, rather than TxDOT, and the Public Safety Commission.

SECTION 8.3F.02. Amends Section 382.210(f), Health and Safety Code, to redefine "total cost."

SECTION 8.3F.03. Amends Section 461.017(a), Health and Safety Code, as follows:

(a) Sets forth the composition of the Drug Demand Reduction Advisory Committee. Makes nonsubstantive changes.

#### SUBPART G. HUMAN RESOURCES CODE

SECTION 8.3G.01. Amends Section 22.041, Human Resources Code, to provide that third-party information includes information obtained from the DMV, rather than TxDOT, vehicle registration record database.

SECTION 8.3G.02. Amends Section 32.026(g), Human Resources Code, to make a conforming change.

#### SUBPART H. LOCAL GOVERNMENT CODE

SECTION 8.3H.01. Amends Section 130.006, Local Government Code, to include among the procedures for the collection of dishonored checks and credit card invoices notification to DMV, rather than TxDOT, the comptroller, or DPS that the receipt, registration, certificate, or other instrument held by the marker is not valid.

SECTION 8.3H.02. Amends Section 130.007, Local Government Code, to make conforming changes.

SECTION 8.3H.03. Amends Section 130.008, Local Government Code, to make conforming changes.

SECTION 8.3H.04. Amends Section 130.009, Local Government Code, to make conforming changes.

#### SUBPART I. OCCUPATIONS CODE

SECTION 8.3I.01. Amends Section 554.009(c), Occupations Code, to authorize the board to register a vehicle with DMV, rather than TxDOT, in an alias name only for investigative personnel.

#### SUBPART J. PENAL CODE

SECTION 8.3J.01. Amends Section 31.03(c), Penal Code, as follows:

(c) Provides that for purposes of Subsection (b) (relating to unlawful appropriation of property being unlawful under certain conditions), an actor engaged in the business of obtaining abandoned or wrecked motor vehicles or parts of an abandoned or wrecked motor vehicle for certain purposes is presumed to know on receipt by the actor of stolen property that the property has been previously stolen from another if the actor knowingly or recklessly fails on receipt of a motor vehicle to immediately remove an unexpired license plate from the motor vehicle, to keep the plate in a secure and locked place, or to maintain an inventory, on forms provided by DMV, rather than TxDOT, of license plates kept under this paragraph, including for each plate or set of plates the license plate number and the make, motor number, and vehicle identification number of the motor vehicle from which the plate was removed. Makes a conforming change.

SECTION 8.3J.02. Amends Section 31.11(b), Penal Code, to provide that it is an affirmative defense to prosecution under this section that the person was acting with respect to a number assigned to a vehicle by TxDOT or DMV, as applicable.

## SUBPART K. TAX CODE

SECTION 8.3K.01. Amends Section 21.02(d), Tax Code, to provide that a motor vehicle does not have taxable situs in a taxing unit under Subsection (a)(1) (relating to a tangible personal property being taxable by a taxing unit if it is located in the unit on January 1 for more than a temporary period), if on January 1, the vehicle has been located for less than 60 days at a place of business of a person who holds a wholesale motor vehicle auction general distinguishing number issued by DMV, rather than TxDOT, under Chapter 503 (Dealer's and Manufacturer's Vehicle License Plates), Transportation Code, for that place of business. Makes a conforming change.

SECTION 8.3K.02. Amends Section 22.04(d), Tax Code, to make conforming changes.

SECTION 8.3K.03. Amends Sections 23.121(a)(3), (11), and (14), Tax Code, to redefine "dealer," "sales price," and "towable recreational vehicle."

SECTION 8.3K.04. Amends Sections 23.121(f), (g), and (h), Tax Code, as to make nonsubstantive and conforming changes.

SECTION 8.3K.05. Amends Section 23.123(c), Tax Code, to make nonsubstantive and conforming changes.

SECTION 8.3K.06. Amends Section 23.124(a)(11), Tax Code, to make a conforming change.

SECTION 8.3K.07. Amends Section 113.011, Tax Code, as follows:

Sec. 113.011. New heading: LIENS FILED WITH TEXAS DEPARTMENT OF MOTOR VEHICLES. Makes a conforming change.

SECTION 8.3K.08. Amends Sections 152.0412(a) and (f), Tax Code, to make conforming changes.

SECTION 8.3K.09. Amends Section 152.042, Tax Code, to make a conforming change.

SECTION 8.3K.10. Amends Section 152.121(b), Tax Code, to make a conforming change.

SECTION 8.3K.11. Amends Section 162.001(52), Tax Code, to redefine "registered gross weight."

## PART 4. TRANSFERS OF CERTAIN POWERS, DUTIES, OBLIGATIONS, AND RIGHTS OF ACTION

SECTION 8.4.01. (a) Provides that all powers, duties, obligations, and rights of action of the Motor Carrier Division, the Motor Vehicle Division, and the Vehicle Titles and Registration Division of TxDOT are transferred to DMV, and all powers, duties, obligations, and rights of actions of TTC in connection or associated with those divisions of TxDOT are transferred to the board of DMV on December 1, 2009.

(b) Provides that in connection with the transfers required by Subsection (a) of this section, the personnel, furniture, computers, other property and equipment, files, and related materials used by the Motor Carrier Division, the Motor Vehicle Division, and Vehicle Titles and Registration Division of TxDOT are transferred to DMV.

(c) Requires DMV to continue any proceeding involving the Motor Carrier Division, the Motor Vehicle Division, and the Vehicle Titles and Registration Division of TxDOT that was brought before the effective date of this Act in accordance with the law in effect on the date the proceeding was brought, and provides that the former law is continued in effect for that purpose.



(d) Provides that a certificate, license, document, permit, registration, or other authorization issued by the Motor Carrier Division, the Motor Vehicle Division, and the Vehicle Titles and Registration Division of TxDOT that is in effect on the effective date of this Act remains valid for the period for which it was issued unless suspended or revoked by DMV.

(e) Provides that a rule adopted by TxDOT in connection with or relating to the Motor Carrier Division, the Motor Vehicle Division, or the Vehicle Titles and Registration Division of TxDOT continues in effect until it is amended or repealed by the board of DMV.

(f) Provides that the unobligated and unexpended balance of any appropriations made to TxDOT in connection with or relating to the Motor Carrier Division, and the Vehicle Titles and Registration Division of TxDOT for the state fiscal biennium ending August 31, 2009, is transferred and reappropriated to DMV for the purposes of implementing the powers, duties, obligations, and rights of action transferred to that department under Subsection (a) of this section.

SECTION 8.4.02. (a) Provides that all powers, duties, obligations, and rights of action of the Automobile Burglary and Theft Prevention Authority Office of TxDOT under Article 4413(37), Revised Statutes, are transferred to the Automobile Burglary and Theft Prevention Authority Division of DMV, and all powers, duties, obligations, and rights of action of TTC in connection or association with the Automobile Burglary and Theft Prevention Authority Office of TxDOT are transferred to the board of DMV on December 1, 2009.

(b) Provides that in connection with the transfers required by Subsection (a) of this section, the personnel, furniture, computers, other property and equipment, files, and related materials used by the Automobile Burglary and Theft Prevention Authority Office of TxDOT are transferred to the Automobile Burglary and Theft Prevention Authority Division of DMV.

(c) Requires the Automobile Burglary and Theft Prevention Authority Office of TxDOT to continue any proceeding involving the Automobile Burglary and Theft Prevention Authority Office of TxDOT that was brought before the effective date of this Act in accordance with the law in effect on the date the proceeding was brought, and the former law is continued in effect for that purpose.

(d) Provides that a certificate, license, document, permit, registration, or other authorization issued by the Automobile Burglary and Theft Prevention Authority Office of TxDOT that is in effect on the effective date of this Act remains valid for the period for which it was issued unless suspended or revoked by the Automobile Burglary and Theft Prevention Authority Division of DMV.

(e) Provides that a rule adopted by the Automobile Burglary and Theft Prevention Authority Office of TxDOT, TTC, or the director of TxDOT in connection with or relating to the Automobile Burglary and Theft Prevention Authority Office of that department continues in effect until it is amended or repealed by Automobile Burglary and Theft Prevention Authority Division of DMV.

(f) Provides that the unobligated and unexpended balance of any appropriations made to TxDOT in connection with or relating to the Automobile Burglary and Theft Prevention Authority Office of TxDOT for the state fiscal biennium ending August 31, 2009, is transferred and reappropriated to DMV for the purpose of implementing the powers, duties, obligations, and rights of action transferred to DMV under Subsection (a) of this section.

## PART 5. APPOINTMENT OF BOARD

SECTION 8.5.01. Requires the governor, not later than December 1, 2009, to appoint the members of the board of DMV in accordance with Subchapter B, Chapter 1001, Transportation Code, as added by this article.

## ARTICLE 9. RAIL TRANSPORTATION DIVISION

SECTION 9.01. Amends Section 91.001, Transportation Code, by adding Subdivision (3-a), to define "division."

SECTION 9.02. Amends Subchapter A, Chapter 91, Transportation Code, by adding Section 91.0041, as follows:

Sec. 91.0041. DUTIES OF RAIL TRANSPORTATION DIVISION. Requires the division, in addition to any other duty imposed on the division, to assure that rail transportation is an integral part of TxDOT's transportation planning process; coordinate and oversee rail projects that are financed with money in the Texas rail relocation and improvement fund; develop and plan for improved passenger and freight rail facilities and services in this state; and coordinate the efforts of TxDOT, the federal government, and private entities to continue the development of rail transportation facilities and services in this state.

## ARTICLE 10. ELECTRONIC SIGNS

SECTION 10.01. Amends Chapter 544, Transportation Code, by adding Section 544.013, as follows:

Sec. 544.013. CHANGEABLE MESSAGE SIGN SYSTEM. (a) Defines "changeable message sign." Provides that the term includes a dynamic message sign.

(b) Requires TxDOT to actively manage a system of changeable message signs located on highways under the jurisdiction of TxDOT to mitigate traffic congestion by providing current information to the traveling public, including information about incidents, weather conditions, road construction, and alternative routes.

## ARTICLE 11. EFFECTIVE DATE

SECTION 11.01. Effective date: September 1, 2009.