

By: Leibowitz

H.B. No. 11

A BILL TO BE ENTITLED

1 AN ACT

2 relating to repeal of authority for the establishment and operation
3 of the Trans-Texas Corridor.

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

5 SECTION 1. Section 11.11(j), Tax Code, is amended to read as
6 follows:

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

18 SECTION 2. Section 25.06(c), Tax Code, is amended to read as
19 follows:

20 (c) This section does not apply to:

21 (1) any portion of a facility owned by the Texas
22 Department of Transportation that is [~~part of the Trans-Texas~~
23 ~~Corridor, is~~] a rail facility or system[7] or is a highway in the
24 state highway system and that is licensed or leased to a private

1 entity by that department under Chapter 91[~~7~~,~~227~~,] or 361,
2 Transportation Code; or

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

8 SECTION 3. Section 25.07(c), Tax Code, is amended to read as
9 follows:

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

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

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

22 SECTION 4. Sections 201.616(a) and (b), Transportation
23 Code, are amended to read as follows:

24 (a) Not later than December 1 of each year, the department
25 shall submit a report to the legislature that details:

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

1 (A) the unified transportation program of the
2 department;

3 (B) turnpike projects and toll roads of the
4 department; and

5 (C) [~~the Trans-Texas Corridor,~~
6 [~~(D)~~] rail facilities described in Chapter 91;
7 [~~and~~

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

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

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

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

20 SECTION 5. Section 202.112(a), Transportation Code, is
21 amended to read as follows:

22 (a) The commission may purchase an option to acquire
23 property for possible use in or in connection with a transportation
24 facility[~~7, including a facility as defined by Section 227.001,]~~
25 before a final decision has been made as to whether the
26 transportation facility will be located on that property.

27 SECTION 6. Section 222.003(e), Transportation Code, is

1 amended to read as follows:

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

14 SECTION 7. Section 223.201(a), Transportation Code, is
15 amended to read as follows:

16 (a) Subject to Section 223.202, the department may enter
17 into a comprehensive development agreement with a private entity to
18 design, develop, finance, construct, maintain, repair, operate,
19 extend, or expand a:

20 (1) toll project;

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

23 [~~(3)~~] state highway improvement project that includes
24 both tolled and nontolled lanes and may include nontolled
25 appurtenant facilities;

26 (3) [~~(4)~~] state highway improvement project in which
27 the private entity has an interest in the project; or

1 (4) [~~(5)~~] state highway improvement project financed
2 wholly or partly with the proceeds of private activity bonds, as
3 defined by Section 141(a), Internal Revenue Code of 1986.

4 SECTION 8. Section 223.206(d), Transportation Code, is
5 amended to read as follows:

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

12 SECTION 9. Sections 223.208(b), (c), (e), and (f),
13 Transportation Code, are amended to read as follows:

14 (b) A comprehensive development agreement entered into
15 under this subchapter [~~or Section 227.023(c)~~] may include any
16 provision that the department considers appropriate, including
17 provisions:

18 (1) providing for the purchase by the department,
19 under terms and conditions agreed to by the parties, of the interest
20 of a private participant in the comprehensive development agreement
21 and related property, including any interest in a highway or other
22 facility designed, developed, financed, constructed, operated, or
23 maintained under the comprehensive development agreement;

24 (2) establishing the purchase price for the interest
25 of a private participant in the comprehensive development agreement
26 and related property, which price may be determined in accordance
27 with the methodology established by the parties in the

1 comprehensive development agreement;

2 (3) providing for the payment of obligations incurred
3 pursuant to the comprehensive development agreement, including any
4 obligation to pay the purchase price for the interest of a private
5 participant in the comprehensive development agreement, from any
6 lawfully available source, including securing such obligations by a
7 pledge of revenues of the commission or the department derived from
8 the applicable project, which pledge shall have such priority as
9 the department may establish;

10 (4) permitting the private participant to pledge its
11 rights under the comprehensive development agreement;

12 (5) concerning the private participant's right to
13 operate and collect revenue from the project; and

14 (6) restricting the right of the commission or the
15 department to terminate the private participant's right to operate
16 and collect revenue from the project unless and until any
17 applicable termination payments have been made.

18 (c) The department may enter into a comprehensive
19 development agreement under this subchapter [~~or under Section~~
20 ~~227.023(c)~~] with a private participant only if the project is
21 identified in the department's unified transportation program or is
22 located on a transportation corridor identified in the statewide
23 transportation plan.

24 (e) Notwithstanding anything in Section 201.112 or other
25 law to the contrary, and subject to compliance with the dispute
26 resolution procedures set out in the comprehensive development
27 agreement, an obligation of the commission or the department under

1 a comprehensive development agreement entered into under this
2 subchapter [~~or Section 227.023(c)~~] to make or secure payments to a
3 person because of the termination of the agreement, including the
4 purchase of the interest of a private participant or other investor
5 in a project, may be enforced by mandamus against the commission,
6 the department, and the comptroller in a district court of Travis
7 County, and the sovereign immunity of the state is waived for that
8 purpose. The district courts of Travis County shall have exclusive
9 jurisdiction and venue over and to determine and adjudicate all
10 issues necessary to adjudicate any action brought under this
11 subsection. The remedy provided by this subsection is in addition
12 to any legal and equitable remedies that may be available to a party
13 to a comprehensive development agreement.

14 (f) A comprehensive development agreement entered into
15 under this subchapter [~~or Section 227.023(c)~~] and any obligations
16 incurred, issued, or owed under the agreement does not constitute a
17 state security under Chapter 1231, Government Code.

18 SECTION 10. Section 371.001(2), Transportation Code, as
19 added by Chapter 103, Acts of the 80th Legislature, Regular
20 Session, 2007, is amended to read as follows:

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

- 24 (A) the department under Chapter [~~227 or~~] 228;
- 25 (B) a regional tollway authority under Chapter
26 366;
- 27 (C) a regional mobility authority under Chapter

1 370; or

2 (D) a county under Chapter 284.

3 SECTION 11. Section 371.001(a)(2), Transportation Code, as
4 added by Chapter 258, Acts of the 80th Legislature, Regular
5 Session, 2007, is amended to read as follows:

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

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

10 (B) a regional tollway authority under Chapter
11 366;

12 (C) a regional mobility authority under Chapter
13 370; or

14 (D) a county under Chapter 284.

15 SECTION 12. Section 371.001(2), Transportation Code, as
16 added by Chapter 264, Acts of the 80th Legislature, Regular
17 Session, 2007, is amended to read as follows:

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

21 (A) the department [~~, including under Chapter~~
22 ~~227~~];

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

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

27 (D) a county under Chapter 284.

1 SECTION 13. The following provisions of the Transportation
2 Code are repealed:

- 3 (1) Section 201.618(e);
- 4 (2) Chapter 227;
- 5 (3) Section 284.0032;
- 6 (4) Section 366.305;
- 7 (5) Section 370.316; and
- 8 (6) Section 545.3531.

9 SECTION 14. This Act takes effect immediately if it
10 receives a vote of two-thirds of all the members elected to each
11 house, as provided by Section 39, Article III, Texas Constitution.
12 If this Act does not receive the vote necessary for immediate
13 effect, this Act takes effect September 1, 2009.