

By: Phillips

H.B. No. 2990

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the authority and powers of regional mobility  
3 authorities.

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

5 SECTION 1. Sections 370.003(12) and (14), Transportation  
6 Code, are amended to read as follows:

7 (12) "Surplus revenue" means revenue that exceeds:

8 (A) an authority's debt service requirements for  
9 a transportation project, including the redemption or purchase  
10 price of bonds subject to redemption or purchase as provided in the  
11 applicable bond proceedings;

12 (A-1) an authority's payment obligations under a  
13 contract or agreement authorized by this chapter;

14 (B) coverage requirements of a bond indenture for  
15 a transportation project;

16 (C) costs of operation and maintenance for a  
17 transportation project;

18 (D) cost of repair, expansion, or improvement of  
19 a transportation project;

20 (E) funds allocated for feasibility studies; and

21 (F) necessary reserves as determined by the  
22 authority.

23 (14) "Transportation project" means:

24 (A) a turnpike project;

- 1 (B) a system;
- 2 (C) a passenger or freight rail facility,  
3 including:
- 4 (i) tracks;
- 5 (ii) a rail line;
- 6 (iii) switching, signaling, or other  
7 operating equipment;
- 8 (iv) a depot;
- 9 (v) a locomotive;
- 10 (vi) rolling stock;
- 11 (vii) a maintenance facility; and
- 12 (viii) other real and personal property  
13 associated with a rail operation;
- 14 (D) a roadway with a functional classification  
15 greater than a local road or rural minor collector;
- 16 (E) a ferry;
- 17 (F) an airport [~~other than an airport that on  
18 September 1, 2005, was served by one or more air carriers engaged in  
19 scheduled interstate transportation, as those terms were defined by  
20 14 C.F.R. Section 1.1 on that date~~];
- 21 (G) a pedestrian or bicycle facility;
- 22 (H) an intermodal hub;
- 23 (I) an automated conveyor belt for the movement  
24 of freight;
- 25 (J) a border crossing inspection station;
- 26 (K) an air quality improvement initiative;
- 27 (L) a public utility facility;

1 (M) a transit system;

2 (M-1) a parking area, structure, or facility, or  
3 a collection device for parking fees; and

4 (N) if applicable, projects and programs listed  
5 in the most recently approved state implementation plan for the  
6 area covered by the authority, including an early action compact.

7 SECTION 2. Section 370.004(a), Transportation Code, is  
8 amended to read as follows:

9 (a) The cost of acquisition, construction, improvement,  
10 extension, or expansion of a transportation project under this  
11 chapter includes the cost of:

12 (1) the actual acquisition, construction,  
13 improvement, extension, or expansion of the transportation  
14 project;

15 (2) the acquisition of real property, rights-of-way,  
16 property rights, easements, and other interests in real property;

17 (3) machinery and equipment;

18 (4) interest payable before, during, and for not more  
19 than three years after acquisition, construction, improvement,  
20 extension, or expansion as provided in the bond proceedings;

21 (5) traffic estimates, revenue estimates, engineering  
22 and legal services, plans, specifications, surveys, appraisals,  
23 construction cost estimates, and other expenses necessary or  
24 incidental to determining the feasibility of the acquisition,  
25 construction, improvement, extension, or expansion;

26 (6) necessary or incidental administrative, legal,  
27 and other expenses;

1 (7) compliance with laws, regulations, and  
2 administrative rulings, including any costs associated with  
3 necessary environmental mitigation measures;

4 (8) financing;

5 (9) the assumption of debts, obligations, and  
6 liabilities of an entity relating to a transportation project  
7 transferred to an authority by that entity; ~~and~~

8 (10) expenses related to the initial operation of the  
9 transportation project; and

10 (11) payment obligations of an authority under a  
11 contract or agreement authorized by this chapter in connection with  
12 the acquisition, construction, improvement, extension, expansion,  
13 or financing of the transportation project.

14 SECTION 3. Sections 370.033(a), (f), and (g),  
15 Transportation Code, are amended to read as follows:

16 (a) An authority, through its board, may:

17 (1) adopt rules for the regulation of its affairs and  
18 the conduct of its business;

19 (2) adopt an official seal;

20 (3) study, evaluate, design, finance, acquire,  
21 construct, maintain, repair, and operate transportation projects,  
22 individually or as one or more systems, provided that a  
23 transportation project that is subject to Subpart C, 23 C.F.R. Part  
24 450, is:

25 (A) included in the plan approved by the  
26 applicable metropolitan planning organization; and

27 (B) consistent with the statewide transportation

1 plan and the statewide transportation improvement program;

2 (4) acquire, hold, and dispose of property in the  
3 exercise of its powers and the performance of its duties under this  
4 chapter;

5 (5) enter into contracts or operating agreements with  
6 a similar authority, another governmental entity, or an agency of  
7 the United States, a state of the United States, the United Mexican  
8 States, or a state of the United Mexican States;

9 (6) enter into contracts or agreements necessary or  
10 incidental to its powers and duties under this chapter;

11 (7) cooperate and work directly with property owners  
12 and governmental entities and officials to support an activity  
13 required to promote or develop a transportation project;

14 (8) employ and set the compensation and benefits of  
15 administrators, consulting engineers, attorneys, accountants,  
16 construction and financial experts, superintendents, managers,  
17 full-time and part-time employees, agents, consultants, and other  
18 persons as the authority considers necessary or useful;

19 (8-a) participate in the state travel management  
20 program administered by the comptroller for the purpose of  
21 obtaining reduced airline fares and reduced travel agent fees,  
22 provided that the comptroller may charge the authority a fee not to  
23 exceed the costs incurred by the comptroller in providing services  
24 to the authority;

25 (9) notwithstanding Sections 221.003 and 222.031 and  
26 subject to Subsections (j) and (m), apply for, directly or  
27 indirectly receive and spend loans, gifts, grants, and other

1 contributions for any purpose of this chapter, including the  
2 construction of a transportation project, and receive and spend  
3 contributions of money, property, labor, or other things of value  
4 from any source, including the United States, a state of the United  
5 States, the United Mexican States, a state of the United Mexican  
6 States, the commission, the department, a subdivision of this  
7 state, or a governmental entity or private entity, to be used for  
8 the purposes for which the grants, loans, or contributions are  
9 made, and enter into any agreement necessary for the grants, loans,  
10 or contributions;

11 (10) install, construct, or contract for the  
12 construction of public utility facilities, direct the time and  
13 manner of construction of a public utility facility in, on, along,  
14 over, or under a transportation project, or request the removal or  
15 relocation of a public utility facility in, on, along, over, or  
16 under a transportation project;

17 (11) organize a corporation under Chapter 431 for the  
18 promotion and development of transportation projects;

19 (12) adopt and enforce rules not inconsistent with  
20 this chapter for the use of any transportation project, including  
21 tolls, fares, or other user fees, speed and weight limits, and  
22 traffic and other public safety rules, provided that an authority  
23 must consider the same factors that the Texas Turnpike Authority  
24 division of the department must consider in altering a prima facie  
25 speed limit under Section 545.354;

26 (13) enter into leases, operating agreements, service  
27 agreements, licenses, franchises, and similar agreements with a

1 public or private party governing the party's use of all or any  
2 portion of a transportation project and the rights and obligations  
3 of the authority with respect to a transportation project;

4 (14) borrow money from or enter into a loan agreement  
5 or other arrangement with the state infrastructure bank, the  
6 department, the commission, or any other public or private entity;  
7 and

8 (15) do all things necessary or appropriate to carry  
9 out the powers and duties expressly granted or imposed by this  
10 chapter.

11 (f) An authority and a governmental entity may enter into a  
12 contract, agreement, interlocal agreement, or other similar  
13 arrangement under which the authority may plan, design, construct,  
14 or operate a transportation project on behalf of the governmental  
15 entity. An authority may enter into a contract with the department  
16 under which the authority will plan, develop, operate, or maintain  
17 a transportation project on behalf of the department, subject to  
18 the transportation project being in the authority's area of  
19 jurisdiction. A contract or agreement under this subsection may  
20 contain terms and conditions as may be approved by an authority,  
21 including payment obligations of the governmental entity and the  
22 authority.

23 (g) Payments to be made to an authority under a contract or  
24 agreement described by Subsection (f) constitute operating  
25 expenses of the transportation project or system that is to be  
26 operated under the contract. The contract may extend for the number  
27 of years as agreed to by the parties.

1 SECTION 4. Subchapter B, Chapter 370, Transportation Code,  
2 is amended by adding Section 370.040 to read as follows:

3 Sec. 370.040. TOLL COLLECTION. (a) An authority shall  
4 provide, for reasonable compensation, customer service and other  
5 toll collection and enforcement services for a toll project in the  
6 geographic boundaries of the authority, regardless of whether the  
7 toll project is developed, financed, constructed, and operated  
8 under an agreement, including a comprehensive development  
9 agreement, with the authority or another entity.

10 (b) An authority may not provide financial security for the  
11 performance of services it provides under Subsection (a) if:

12 (1) the authority determines that providing financial  
13 security could restrict the amount or increase the cost of bonds or  
14 other debt obligations the authority may subsequently issue under  
15 this chapter; or

16 (2) the authority is not reimbursed its cost of  
17 providing the security.

18 (c) Subsection (a) may be waived by the authority under a  
19 written agreement between the authority and the entity developing  
20 the toll project.

21 SECTION 5. Sections 370.071(a) and (b), Transportation  
22 Code, are amended to read as follows:

23 (a) An authority may pay the expenses of studying the cost  
24 and feasibility of a transportation project, the design and  
25 engineering of a transportation project, and any other expenses  
26 relating to the preparation and issuance of bonds for a proposed  
27 transportation project by:



1           (1) using legally available revenue derived from an  
2 existing transportation project;

3           (2) borrowing money and issuing bonds or entering into  
4 a loan agreement payable out of legally available revenue  
5 anticipated to be derived from the operation of an existing  
6 transportation project; ~~or~~

7           (3) pledging to the payment of the bonds or a loan  
8 agreement legally available revenue anticipated to be derived from  
9 the operation of transportation projects or revenue legally  
10 available to the authority from another source; or

11           (4) pledging to the payment of the bonds or a loan  
12 agreement the proceeds from the sale of other bonds.

13           (b) Money spent under this section for a proposed  
14 transportation project must be reimbursed to the transportation  
15 project from which the money was spent from the proceeds of bonds  
16 issued for the acquisition and construction of the proposed  
17 transportation project, unless the transportation projects are or  
18 become part of a system under Section 370.034.

19           SECTION 6. Section 370.072(c), Transportation Code, is  
20 amended to read as follows:

21           (c) Money in the feasibility study fund may be used only to  
22 pay the expenses of studying the cost and feasibility of a  
23 transportation project, the design and engineering of a  
24 transportation project, and any other expenses relating to:

25           (1) the preparation and issuance of bonds for the  
26 acquisition and construction of a proposed transportation project;

27           (2) the financing of the improvement, extension, or

1 expansion of an existing transportation project; and

2 (3) private participation, as authorized by law, in  
3 the financing of a proposed transportation project, the refinancing  
4 of an existing transportation project or system, or the  
5 improvement, extension, or expansion of a transportation project.

6 SECTION 7. Section 370.073(a), Transportation Code, is  
7 amended to read as follows:

8 (a) One or more municipalities, counties, or other  
9 governmental entities, a combination of municipalities, counties,  
10 and other governmental entities, or a private group or combination  
11 of individuals in this state may pay all or part of the expenses of  
12 studying the cost and feasibility of a transportation project, the  
13 design and engineering of a transportation project, and any other  
14 expenses relating to:

15 (1) the preparation and issuance of bonds for the  
16 acquisition or construction of a proposed transportation project by  
17 an authority;

18 (2) the improvement, extension, or expansion of an  
19 existing transportation project of the authority; or

20 (3) the use of private participation under applicable  
21 law in connection with the acquisition, construction, improvement,  
22 expansion, extension, maintenance, repair, or operation of a  
23 transportation project by an authority.

24 SECTION 8. Section 370.113(a), Transportation Code, is  
25 amended to read as follows:

26 (a) The principal of, interest on, and any redemption  
27 premium on bonds issued by an authority are payable solely from:

1 (1) the revenue of the transportation project for  
2 which the bonds are issued;

3 (2) payments made under an agreement with the  
4 commission, the department, or other governmental entity as  
5 authorized [~~provided~~] by this chapter [~~Subchapter G~~];

6 (3) money derived from any other source available to  
7 the authority, other than money derived from a transportation  
8 project that is not part of the same system or money derived from a  
9 different system, except to the extent that the surplus revenue of a  
10 transportation project or system has been pledged for that purpose;  
11 [~~and~~]

12 (4) amounts received under a credit agreement relating  
13 to the transportation project for which the bonds are issued; and

14 (5) the proceeds of the sale of other bonds.

15 SECTION 9. Section 370.114, Transportation Code, is amended  
16 to read as follows:

17 Sec. 370.114. EFFECT OF LIEN. (a) A lien on or a pledge of  
18 revenue from a transportation project under this chapter or on a  
19 reserve, replacement, or other fund established in connection with  
20 a bond issued under this chapter or an agreement entered into under  
21 this chapter:

22 (1) is enforceable at the time of payment for and  
23 delivery of the bond or on the effective date of the agreement;

24 (2) applies to each item on hand or subsequently  
25 received;

26 (3) applies without physical delivery of an item or  
27 other act; and

1           (4) is enforceable against any person having a claim,  
2 in tort, contract, or other remedy, against the applicable  
3 authority without regard to whether the person has notice of the  
4 lien or pledge.

5           (b) A copy of any bond resolution shall ~~[is not required to]~~  
6 be maintained ~~[recorded except]~~ in the regular records of the  
7 authority.

8           SECTION 10. Section 370.172, Transportation Code, is  
9 amended by amending Subsection (b) and adding Subsection (k) to  
10 read as follows:

11           (b) Tolls, fees, fares, or other charges must be set at  
12 rates or amounts so that the aggregate of tolls, fees, fares, or  
13 other charges from an authority's transportation project, together  
14 with other revenue of the transportation project:

15           (1) provides revenue sufficient to pay:

16                   (A) the cost of maintaining, repairing, and  
17 operating the transportation project; ~~and~~

18                   (B) the principal of and interest on any bonds  
19 issued for the transportation project as those bonds become due and  
20 payable; and

21                   (C) any other payment obligations of an authority  
22 under a contract or agreement authorized under this chapter; and

23           (2) creates reserves for a purpose listed under  
24 Subdivision (1).

25           (k) Notwithstanding any other provision of this chapter to  
26 the contrary, an authority may pledge all or any part of its  
27 revenues and any other funds available to the authority to the

1 payment of any obligations of the authority under a contract or  
2 agreement authorized by this chapter.

3 SECTION 11. Section 370.173(c), Transportation Code, is  
4 amended to read as follows:

5 (c) The authority may use money in the revolving fund to:

6 (1) finance the acquisition, construction,  
7 maintenance, or operation of a transportation project, including  
8 the extension, expansion, or improvement of a transportation  
9 project;

10 (2) provide matching money required in connection with  
11 any federal, state, local, or private aid, grant, or other funding,  
12 including aid or funding by or with public-private partnerships;

13 (3) provide credit enhancement either directly or  
14 indirectly for bonds issued to acquire, construct, extend, expand,  
15 or improve a transportation project;

16 (4) provide security for or payment of future or  
17 existing debt for the design, acquisition, construction,  
18 operation, maintenance, extension, expansion, or improvement of a  
19 transportation project or system;

20 (5) borrow money and issue bonds, promissory notes, or  
21 other indebtedness payable out of the revolving fund for any  
22 purpose authorized by this chapter; and

23 (6) provide for any other reasonable purpose that  
24 assists in the financing of an authority as authorized by this  
25 chapter.

26 SECTION 12. Section 370.177, Transportation Code, is  
27 amended by adding Subsection (1) to read as follows:

1       (1) In addition to the other powers and duties provided by  
2 this chapter, with regard to its toll collection and enforcement  
3 powers for its turnpike projects or other toll projects developed,  
4 financed, constructed, and operated under an agreement, including a  
5 comprehensive development agreement, with the authority or another  
6 entity, an authority has the same powers and duties as the  
7 department under Chapter 228, a county under Chapter 284, and a  
8 regional tollway authority under Chapter 366.

9       SECTION 13. Sections 370.251(a) and (b), Transportation  
10 Code, are amended to read as follows:

11       (a) Except as provided by Subsection (a-1), the governing  
12 body of an authority is a board of directors consisting of  
13 representatives of each county in which a transportation project of  
14 the authority is located or is proposed to be located. The  
15 commissioners court of each county that initially forms the  
16 authority shall appoint at least two directors to the  
17 board. Additional directors may be appointed to the board at the  
18 time of initial formation by agreement of the counties creating the  
19 authority to ensure fair representation of political subdivisions  
20 in the counties of the authority that will be affected by a  
21 transportation project of the authority, provided that the number  
22 of directors must be an odd number. The commissioners court of a  
23 county that is subsequently added to the authority shall appoint at  
24 least one director to the board. The governor shall appoint one  
25 director to the board who shall serve as the presiding officer of  
26 the board and shall appoint an additional director to the board if  
27 an appointment is necessary to maintain an odd number of directors

1 on the board.

2 (b) The appointment [~~Unless the commissioners courts~~] of  
3 additional directors from a county subsequently added to an [~~the~~  
4 ~~counties of the~~] authority or from a [~~unanimously agree otherwise,~~  
5 ~~the commissioners court of each~~] county of an authority that  
6 contains an operating transportation project of the authority shall  
7 be by a process unanimously agreed to by the commissioners courts of  
8 all the counties of the authority [~~appoint one additional~~  
9 ~~director~~].

10 SECTION 14. Section 370.303, Transportation Code, is  
11 amended by amending Subsections (a) and (b) and adding Subsections  
12 (b-1) and (g) to read as follows:

13 (a) A governmental entity [~~other than a nonprofit~~  
14 ~~corporation~~] may, consistent with the Texas Constitution, issue  
15 bonds, notes, or other obligations or enter into and make payments  
16 under agreements with an authority in connection with the  
17 financing, acquisition, construction, [~~to acquire, construct,~~  
18 ~~maintain,~~] or operation of [~~operate~~] a transportation project by an  
19 authority, whether inside or outside the geographic boundaries of  
20 the governmental entity, including agreements to pay the principal  
21 of, and interest on, bonds, notes, or other obligations issued by  
22 the authority and make payments under any related credit  
23 agreements. The entity may impose and collect taxes to pay the  
24 interest on the bonds and to provide a sinking fund for the  
25 redemption of the bonds.

26 (b) In addition to the powers provided by Subsection (a), a  
27 governmental entity may, to the extent constitutionally permitted,

1 agree with an authority to:

2           (1) issue bonds, notes, or other obligations;

3           (2) [~~T~~] create:

4                 (A) a taxing district;

5                 (B) a transportation reinvestment zone under  
6 Subchapter E, Chapter 222; or

7                 (C) an entity to promote economic development;

8           (3) collect and remit to an authority taxes, fees, or  
9 assessments collected for purposes of developing transportation  
10 projects;

11           (4) [~~T~~] fund public improvements to promote economic  
12 development;[~~T~~] or

13           (5) enter into and make payments under an agreement to  
14 acquire, construct, maintain, or operate any portion of a  
15 transportation project of the authority.

16           (b-1) An agreement under Subsection (b) may include a means  
17 for a local governmental entity to pledge or otherwise provide  
18 funds for a transportation project that benefits the governmental  
19 entity to be developed by the authority.

20           (g) An agreement under this section may contain repayment or  
21 reimbursement obligations of an authority.

22           SECTION 15. Section 370.304, Transportation Code, is  
23 amended to read as follows:

24           Sec. 370.304. ADDITIONAL AGREEMENTS OF AUTHORITY. An  
25 authority may enter into any contract, loan agreement, or other  
26 agreement necessary or convenient to achieve the purposes of this  
27 subchapter.



1 SECTION 16. The heading to Section 370.314, Transportation  
2 Code, is amended to read as follows:

3 Sec. 370.314. DESIGN-BUILD AND CONSTRUCTION  
4 MANAGER-AT-RISK PROCEDURES.

5 SECTION 17. Section 370.314, Transportation Code, is  
6 amended by adding Subsections (c) and (d) to read as follows:

7 (c) Notwithstanding any other law requiring a competitive  
8 bidding procedure, an authority may enter into a contract for the  
9 construction of a turnpike project by a construction  
10 manager-at-risk procedure under which the construction  
11 manager-at-risk provides consultation to the authority during the  
12 design of the turnpike project and is responsible for the  
13 construction of the turnpike project in accordance with the  
14 authority's specifications. A construction manager-at-risk shall  
15 be selected on the basis of criteria established by the authority,  
16 which may include the construction manager-at-risk's experience,  
17 past performance, safety record, proposed personnel and  
18 methodology, proposed fees, and other appropriate factors that  
19 demonstrate the construction manager-at-risk's ability to provide  
20 the best value to the authority and to deliver the required services  
21 in accordance with the authority's specifications.

22 (d) The authority shall adopt rules governing the award of  
23 contracts using construction manager-at-risk procedures under this  
24 section.

25 SECTION 18. Section 371.051(a), Transportation Code, as  
26 added by Chapter 103 (H.B. 570), Acts of the 80th Legislature,  
27 Regular Session, 2007, is amended to read as follows:

1           (a) A toll project entity may not use motor vehicle  
2 registration or other information derived from a license plate on a  
3 vehicle using a toll project, including information obtained by the  
4 use of automated enforcement technology described by Section  
5 228.058, for purposes other than those related to:

6           (1) toll collection, ~~and~~ toll collection  
7 enforcement, and toll project development and operation; and

8           (2) law enforcement purposes on request by a law  
9 enforcement agency~~[, subject to Section 228.058(d)]~~.

10          SECTION 19. Section 370.317(d), Transportation Code, is  
11 repealed.

12          SECTION 20. This Act takes effect immediately if it  
13 receives a vote of two-thirds of all the members elected to each  
14 house, as provided by Section 39, Article III, Texas Constitution.  
15 If this Act does not receive the vote necessary for immediate  
16 effect, this Act takes effect September 1, 2009.