

Suspending limitations on conference committee  
jurisdiction, H.B. No. 300 (Isett/Hegar)

By: Isett

H.R. No. 3054

R E S O L U T I O N

1 BE IT RESOLVED by the House of Representatives of the State of  
2 Texas, 81st Legislature, Regular Session, 2009, That House Rule 13,  
3 Section 9(a), be suspended in part as provided by House Rule 13,  
4 Section 9(f), to enable the conference committee appointed to  
5 resolve the differences on House Bill 300 (the continuation and  
6 functions of the Texas Department of Transportation; providing  
7 penalties) to consider and take action on the following matters:

8 (1) House Rule 13, Sections 9(a)(1) and (2), are suspended  
9 to permit the committee to alter and omit text which is not in  
10 disagreement in Section 1.04 of the bill at the end of added Section  
11 201.117, Transportation Code, which relates to the use of available  
12 technology to enhance compliance with the Texas Motor Vehicle  
13 Safety Responsibility Act and was included in both the house and  
14 senate versions of the bill, so that the added section omits text  
15 relating to the Texas Motor Vehicle Safety Responsibility Act to  
16 read as follows:

17 Sec. 201.117. TECHNOLOGICAL SOLUTIONS. The commission  
18 shall implement a policy requiring the department to use  
19 appropriate technological solutions to improve the department's  
20 ability to perform its functions. The policy must ensure that the  
21 public is able to interact with the department on the Internet.

22 Explanation: The change is necessary because enforcement of  
23 the Texas Motor Vehicle Safety Responsibility Act is more  
24 appropriately a law enforcement of the Public Safety Commission

1 than a function of the Texas Transportation Commission.

2 (2) House Rule 13, Sections 9(a)(1) and (4), are suspended  
3 to permit the committee, in Section 1.12 of the bill, to add  
4 Subsection (b) to Section 1.12 to read as follows:

5 (b) Not later than January 1, 2010, the Texas Transportation  
6 Commission shall adopt the rules required by Section 202.031(a-1),  
7 Transportation Code, as added by Subsection (a) of this section.

8 Explanation: This change is necessary because added Section  
9 202.031(a-1), Transportation Code, requires the Texas  
10 Transportation Commission to adopt certain rules, but does not  
11 specify a date by which the rules must be adopted.

12 (3) House Rule 13, Sections 9(a)(1) and (2), are suspended  
13 to permit the committee to alter and omit text which is not in  
14 disagreement in Section 1.40 of the bill in added Section 311.905,  
15 Transportation Code, by deleting references to the Texas Department  
16 of Transportation that were in both the house and senate versions of  
17 the bill, so that the added section reads as follows:

18 Sec. 311.905. NOTICE OF TRANSPORTATION USER'S FEE BY  
19 MUNICIPALITY. (a) A municipality that imposes a fee on the user of  
20 a benefited property equal to the prorated annual cost of the  
21 transportation system owned by the municipality that can reasonably  
22 be attributed to the benefited property must provide notice to the  
23 user of the fee.

24 (b) The notice to the user required under Subsection (a) is  
25 adequate if the fee amount is stated on monthly billing statements  
26 to the user for metered utility service provided by the  
27 municipality to the user.

1 Explanation: This change is necessary because added Section  
2 311.905, Transportation Code, relates to the authority of a  
3 municipality to impose certain fees on property owners, which is a  
4 purely local matter, and the added requirement that the Texas  
5 Department of Transportation be provided notice of the imposition  
6 of such a fee is unnecessary and serves no purpose.

7 (4) House Rule 13, Sections 9(a)(3) and (4), are suspended  
8 to permit the committee, in SECTION 2.04 of the bill, to add text to  
9 Section 201.981, Transportation Code, to read as follows:

10 (1) "Local transportation entity" means an entity that  
11 participates in the transportation planning process. The term  
12 includes:

13 (A) a metropolitan planning organization;

14 (B) a rural planning organization;

15 (C) a regional tollway authority organized under  
16 Chapter 366;

17 (D) a regional transportation authority  
18 operating under Chapter 452;

19 (E) a rural transit district as defined by  
20 Section 458.001;

21 (F) a coordinated county transportation  
22 authority operating under Chapter 460;

23 (G) a regional mobility authority operating  
24 under Chapter 370; and

25 (H) a county, including a county operating under  
26 Chapter 284.

27 (2) "Planning organization" means:

1           (A) a metropolitan planning organization;  
2           (B) a rural planning organization; or  
3           (C) for an area that is not in the boundaries of a  
4 metropolitan planning organization or a rural planning  
5 organization, the department district.

6           (3) "Transportation project" means the planning,  
7 right-of-way acquisition, expansion, improvement, addition, or  
8 contract maintenance, other than the routine or contracted routine  
9 maintenance, of:

10           (A) a bridge;  
11           (B) a highway;  
12           (C) a toll road or toll road system;  
13           (D) a railroad;  
14           (E) an enhancement of a roadway that increases  
15 the safety of the traveling public;  
16           (F) an air quality improvement initiative; or  
17           (G) a transportation enhancement activity under  
18 23 U.S.C. Section 133.

19           Explanation: This change is necessary for the definition of  
20 "local transportation entity" to include a county, including a  
21 county operating under Chapter 284.

22           (5) House Rule 13, Sections 9(a)(3) and (4), are suspended  
23 to permit the committee to add Section 201.9841(b) to proposed  
24 Subchapter P, Chapter 201, Transportation Code:

25           (b) In this subchapter, unless the context clearly  
26 indicates otherwise, "funds" or "funding" means the estimates of  
27 federal and state money reasonably expected to be available for

1 expenditure on transportation projects during the relevant period.

2 Explanation: This change is necessary to provide for a  
3 definition for "funds" and "funding" for the purpose of the  
4 requirement that the commission use a cash flow forecast to  
5 allocate funding to the planning organizations.

6 (6) House Rule 13, Sections 9(a)(3) and (4), are suspended  
7 to permit the committee to add Section 201.987(e) to proposed  
8 Subchapter P, Transportation Code:

9 (e) The department shall use the planning organizations'  
10 project lists to create the statewide transportation program and  
11 budget. The statewide transportation program and budget must  
12 include:

13 (1) the official cash flow forecast under Section  
14 201.984; and

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

16 Explanation: This change is necessary to provide for the  
17 requirement that the Texas Department of Transportation use the  
18 planning organizations' project lists to create the statewide  
19 transportation program and budget.

20 (7) House Rule 13, Sections 9(a)(3) and (4), are suspended  
21 to permit the committee to add Section 201.988 to proposed  
22 Subchapter P, Chapter 201, Transportation Code:

23 Sec. 201.988. TRANSPORTATION ALLOCATION FUNDING FORMULA.

24 (a) The commission shall adopt rules that create funding formulas  
25 for transportation projects. In developing the formulas the  
26 commission shall consider the input of planning organizations,  
27 transportation officials, and county and municipal officials.

1       (b) The commission shall allocate to metropolitan planning  
2 organizations operating in areas that are a transportation  
3 management area, as defined by 23 U.S.C. Section 134(k), the  
4 following categories of funds:

5           (1) metropolitan area corridor projects;

6           (2) metropolitan mobility and rehabilitation  
7 projects;

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

10          (4) a percentage of transportation enhancements  
11 project funding as determined by formula for projects recommended  
12 by the metropolitan planning organizations under rules adopted by  
13 the commission.

14       (c) The commission shall allocate to metropolitan planning  
15 organizations that are not a transportation management area, as  
16 defined by 23 U.S.C. Section 134(k), the following categories of  
17 funds:

18           (1) urban area corridor projects; and

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

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

27           (1) lane miles;

1           (2) level of congestion;

2           (3) percentage of population below federal poverty  
3 level;

4           (4) census population;

5           (5) safety;

6           (6) total vehicle miles traveled; and

7           (7) truck vehicle miles traveled.

8           (e) The commission shall provide funding estimates to the  
9 planning organizations for the project costs of all transportation  
10 projects. The commission shall adopt appropriate formulas for the  
11 different types of transportation projects, including funding for  
12 statewide connectivity projects. The commission shall adopt rules  
13 for all transportation formulas.

14           Explanation: This change is necessary to provide for the  
15 development of funding formulas for transportation projects.

16           (8) House Rule 13, Sections 9(a)(3) and (4), are suspended  
17 to permit the committee to add Section 201.9892(b) to proposed  
18 Subchapter P, Chapter 201, Transportation Code:

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

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

24           (2) the percentage of projects for which environmental  
25 clearance is obtained on or before the planned implementation  
26 timelines;

27           (3) the percentage of projects for which right-of-way

1 acquisition is completed on or before the planned implementation  
2 timelines;

3 (4) the percentage of parcels acquired through  
4 negotiation;

5 (5) the average time between selection and execution  
6 of a contract for engineering services;

7 (6) the total amount spent for right-of-way as a  
8 percentage of the original estimated amount;

9 (7) the percentage of highway improvement contracts  
10 executed on or before the planned implementation timelines for  
11 letting;

12 (8) the percentage of construction contracts executed  
13 on or before the planned letting date;

14 (9) the total amount spent for construction contracts  
15 as a percentage of the final design estimated amount;

16 (10) for all highway improvement contracts completed  
17 during the state fiscal year, the percentage completed within 20  
18 percent of the original contract time;

19 (11) construction contract adjustments as a  
20 percentage of original contract price;

21 (12) for all highway improvement contracts completed  
22 during the state fiscal year, the percentage completed within 10  
23 percent of the original contract price;

24 (13) for all highway improvement contracts completed  
25 during the state fiscal year, the percentage of the total contract  
26 adjustments as a percentage of the total original contract price;

27 (14) of the federal funds subject to forfeiture at the



1 end of the state fiscal year, the percentage that was committed by  
2 the department;

3 (15) the amounts of cash receipts and disbursements in  
4 contrast with the forecasted amounts;

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

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

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

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

16 Explanation: This change is necessary to provide for the  
17 Texas Department of Transportation to develop minimum performance  
18 measures for the work plan required by proposed Section 201.989,  
19 Transportation Code.

20 (9) House Rule 13, Section 9(a)(4), is suspended to permit  
21 the committee to add text not included in either version of the bill  
22 in proposed SECTION 4.03 of the bill, in added Section 223.201(j),  
23 Transportation Code, so that it reads as follows:

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

25 (1) the department's authority to enter into a  
26 comprehensive development agreement and any related facility  
27 agreement, whether under this section or any other law, is limited

1 to highway, road, and rail projects, and may not be considered to  
2 extend to projects involving public utilities or any other facility  
3 that is not a highway, road, or rail facility; and

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

12 Explanation: The addition is necessary to limit the authority  
13 of the Texas Department of Transportation to enter into  
14 comprehensive development agreements to agreements for highway,  
15 road, and rail projects only, and to prohibit that department from  
16 charging a fee under a comprehensive development agreement or  
17 related agreement in connection with a facility that is not a  
18 highway, road, or rail facility.

19 (10) House Rule 13, Sections 9(a)(3) and (4), are suspended  
20 to permit the committee in SECTION 4.08 of the bill to add text in  
21 Section 223.212, Transportation Code, to read as follows:

22 Sec. 223.212. PROHIBITION AGAINST NONCOMPETITION  
23 PROVISIONS. Except as provided by Section 371.103(b), the  
24 department may not enter into a comprehensive development agreement  
25 for a toll project, including a managed lane, that contains a  
26 provision that limits or prohibits the construction,  
27 reconstruction, expansion, rehabilitation, operation, or

1 maintenance of a nontolled highway by the department or a provision  
2 that requires the department to reimburse a private entity for the  
3 loss of toll revenue attributable to the construction of a  
4 nontolled highway.

5 Explanation: The change is necessary to prohibit the  
6 department from entering into a comprehensive development  
7 agreement that contains certain noncompetition provisions.

8 (11) House Rule 13, Section (9)(a)(2), is suspended to  
9 permit the committee to omit text not in disagreement by omitting  
10 amended Section 503.029, Transportation Code.

11 Explanation: The omission of the text is necessary because  
12 the provision of law included in the omitted text has been amended  
13 in the same manner in another Act of the 81st Legislature, Regular  
14 Session, 2009.

15 (12) House Rule 13, Section (9)(a)(4), is suspended to  
16 permit the committee to add text not included in either version of  
17 the bill in proposed SECTION 17.04 of the bill, in added Section  
18 370.040, Transportation Code, so that it reads as follows:

19 Sec. 370.040. TOLL COLLECTION. (a) In this section,  
20 "tolling services" means the tolling services normally provided  
21 through an authority's customer service center or through  
22 contracted services provided to the authority, including customer  
23 service, customer account maintenance, transponder supply, and  
24 toll collection and enforcement.

25 (b) An authority shall provide, for reasonable  
26 compensation, tolling services for a toll project in the geographic  
27 boundaries of the authority, regardless of whether the toll project

1 is developed, financed, constructed, and operated under an  
2 agreement, including a comprehensive development agreement, with  
3 the authority or another entity. Nothing contained in this section  
4 shall restrict an authority from agreeing to additional tolling  
5 services in an agreement described in Subsection (d). Any such  
6 additional tolling services shall be subject to the same provisions  
7 that apply to tolling services under this section.

8 (c) An authority may not provide financial security,  
9 including a cash collateral account, for the performance of tolling  
10 services it provides under this section if:

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

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

17 (d) Before providing tolling services for a toll project  
18 under this section, an authority must enter into a written  
19 agreement that sets out the terms and conditions for the tolling  
20 services to be provided and the terms of compensation for those  
21 services.

22 (e) Toll revenues are the property of the entity that is  
23 entitled to the revenues under a tolling services agreement for the  
24 toll project, regardless of who holds or collects the revenues.  
25 Toll revenues that are held or collected by an authority under a  
26 tolling services agreement that are not the property of the  
27 authority are not subject to a claim adverse to the authority or a

1 lien on or encumbrance against property of the authority. Toll  
2 revenues that are the property of the authority are not subject to a  
3 claim adverse to any other entity or a lien on or encumbrance  
4 against property of any other entity.

5 (f) An authority may agree in a tolling services agreement  
6 that its right and obligation to provide services for that toll  
7 project under this section are subject to termination for default,  
8 and that after any such termination, this section no longer applies  
9 to that toll project.

10 (g) Any public or private entity, including an authority or  
11 the department, may agree to fund a cash collateral account for the  
12 purpose of providing funds that may be withdrawn as provided in the  
13 tolling services agreement because of an authority's failure to  
14 make any payment as required by the tolling services agreement. An  
15 authority's written commitment to fully or partially fund a cash  
16 collateral account conclusively evidences its determination that  
17 the commitment does not violate Subsection (c). The department may  
18 expend money from any available source for this purpose.

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

22 Explanation: The addition is necessary to allow a regional  
23 mobility authority to provide tolling services to toll projects in  
24 the geographic boundaries of the authority under certain  
25 circumstances.

26 (13) House Rule 13, Section 9(a)(4), is suspended to permit  
27 the committee to add text not included in either version of the bill

1 in proposed SECTION 17.18 of the bill so that it reads as follows:

2 SECTION 17.18. Section 370.040, Transportation Code, as  
3 added by this article, does not apply to any segment, extension or  
4 expansion of the I-35/SH 130 project within the previously  
5 designated Interstate 35 corridor, a segment, extension, or  
6 expansion of the I-69/US 77 project within the previously  
7 designated Interstate 69 corridor, or any project for which the  
8 Texas Department of Transportation has entered into a contract to  
9 construct the project before the effective date of this article.  
10 Such a project, segment, extension, or expansion is governed by the  
11 law as it existed immediately before the effective date of this  
12 article, and that law is continued in effect for that purpose.  
13 Notwithstanding the foregoing, if there is, pursuant to a contract  
14 entered into after the effective date of this article, a transfer of  
15 a leasehold interest in, or right to operate and retain revenues  
16 from, a project that is not a segment, extension, or expansion of  
17 the I-35/SH 130 project within the previously designated Interstate  
18 35 corridor or a segment, extension, or expansion of the I-69/US 77  
19 project within the previously designated Interstate 69 corridor,  
20 and the department does not continue to provide tolling services  
21 for the project, Section 370.040 applies.

22 Explanation: The addition is necessary to exempt certain  
23 projects from the changes in law made to provisions in the bill  
24 relating to regional mobility authority tolling services.

25 (14) House Rule 13, Section 9(a)(2), is suspended to permit  
26 the committee to omit text not in disagreement by omitting text  
27 amending Section 228.004, Transportation Code.

1           Explanation: The omission of the text is necessary because  
2 the provisions of law included in the omitted text have been amended  
3 in the same manner in another Act of the 81st Legislature, Regular  
4 Session, 2009.

5           (15) House Rule 13, Section 9(a)(2), is suspended to permit  
6 the committee to omit text not in disagreement by omitting text  
7 amending Section 228.201, Transportation Code, by omitting the  
8 repeal of Sections 228.202, 228.203, 228.207, and 228.208,  
9 Transportation Code, and by omitting the transition language  
10 associated with those provisions.

11           Explanation: The omission of the text is necessary to remove  
12 changes to the conditions required for the Texas Department of  
13 Transportation to operate a nontolled state highway or a segment of  
14 a nontolled state highway as a toll project.

15           (16) Senate Rule 12.03(3) is suspended to permit the  
16 committee to add text on a matter not in disagreement in the heading  
17 of ARTICLE 12 of the bill so that it reads as follows:

18                     ARTICLE 12. REPEAL OF THE TRANS-TEXAS CORRIDOR

19           Explanation: The addition is necessary to rename the title  
20 of the article.

21           (17) House Rule 13, Section 9(a)(4), is suspended to permit  
22 the committee to add text not included in either the house or senate  
23 version of the bill to ARTICLE 12:

24                     SECTION 12.12. The changes in law made by this Act to  
25 Sections 11.11(j), 25.06(c)(1), and 25.07(c)(1), Tax Code, do not  
26 apply to any portion of a facility owned by the Texas Department of  
27 Transportation that is part of the SH 130, Segments 5 and 6 project,

1 or to a leasehold or other possessory interest in a facility owned  
2 by the Texas Department of Transportation that is part of the SH  
3 130, Segments 5 and 6 project. Sections 11.11(j), 25.06(c)(1), and  
4 25.07(c)(1), Tax Code, as those sections existed immediately before  
5 the effective date of this Act, are continued in effect for those  
6 purposes.

7 Explanation: The change is necessary to exclude certain  
8 leaseholds, possessory interests, and portions of a facility owned  
9 by the Texas Department of Transportation from the applicability of  
10 Sections 11.11(j), 25.06(c)(1), and 25.07(c)(1), Tax Code, as  
11 amended by the bill.

12 (18) House Rule 13, Section 9(a)(2), is suspended to permit  
13 the committee to omit text not in disagreement by omitting amended  
14 Section 701.006, Transportation Code, and omitting the repeal of  
15 Section 701.002(b), Transportation Code.

16 Explanation: The omission of the text is necessary because  
17 the provisions of law included in the omitted text have been amended  
18 and repealed in the same manner in another Act of the 81st  
19 Legislature, Regular Session, 2009.

20 (19) House Rule 13, Section 9(a)(4), is suspended to permit  
21 the committee to add new text not included in either the house or  
22 senate version of the bill by adding the following appropriately  
23 numbered ARTICLE to the bill:

24 ARTICLE 46. LAND RECLAMATION PROJECT AGREEMENT

25 SECTION 46.01. Subchapter C, Chapter 361, Health and Safety  
26 Code, is amended by adding Section 361.1127 to read as follows:

27 Sec. 361.1127. LAND RECLAMATION PROJECTS USING TIRES.



1 (a) In this section:

2 (1) "Land reclamation" means the process of restoring  
3 an area of excavated, deteriorated, or disturbed land to its  
4 approximate natural grade and to prepare or reclaim the land for  
5 reuse.

6 (2) "Scrap tire" has the meaning assigned by Section  
7 361.112.

8 (b) A person may not begin a land reclamation project using  
9 scrap tires without a permit issued by the commission under this  
10 chapter.

11 (c) A person may not use scrap tires for a land reclamation  
12 project unless the tires are shredded, split, or quartered as  
13 provided by commission rule. The commission may grant an exception  
14 to this requirement if the commission finds that circumstances  
15 warrant the exception.

16 (d) The commission may not grant a permit for a land  
17 reclamation project using scrap tires before:

18 (1) the commission receives comments or suggestions  
19 from:

20 (A) the governing body of any municipality in the  
21 corporate limits of which the proposed project is located; or

22 (B) if the proposed project is not located in a  
23 municipality:

24 (i) the commissioners court of each county  
25 in which the proposed project is located;

26 (ii) each groundwater conservation  
27 district, if any, in which the proposed project is located; and

1           (C) the Texas Department of Transportation,  
2 regarding whether the tires to be interred during the proposed land  
3 reclamation project might be diverted into road maintenance  
4 projects administered by the department; or

5           (2) the expiration of a time period, established by  
6 commission rule, in which the entities described by this subsection  
7 may offer comments.

8           (e) The application to request a permit for a land  
9 reclamation project using scrap tires must include at a minimum:

10           (1) a legal description of the area to be reclaimed;

11           (2) a map clearly identifying the area to be reclaimed  
12 and the topography of the area;

13           (3) an affidavit from the property owner certifying  
14 that the reclamation project complies with this section and the  
15 rules adopted under this section; and

16           (4) an analysis and evaluation of the environmental  
17 impacts on the soil and groundwater in the area of the proposed  
18 project that compare the impact of using scrap tires for the  
19 proposed reclamation project to the impact of at least one  
20 reasonable alternative method of land reclamation for the proposed  
21 project.

22           (f) The commission by rule shall:

23           (1) prescribe minimum standards to protect the soil  
24 and water for a land reclamation project using scrap tires; and

25           (2) adopt application forms and procedures for the  
26 permitting process under this section.

27           (g) The commission may amend, extend, transfer, or renew a

1 permit issued under this section as provided by this chapter and  
2 commission rule.

3 (h) The notice and hearing procedures provided by this  
4 subchapter apply to a permit issued, amended, extended, or renewed  
5 under this section.

6 (i) The commission may, for good cause, deny, revoke, or  
7 amend a permit under this section for reasons concerning public  
8 health and safety, air or water pollution, land use, or a violation  
9 of this section as provided by Section 361.089.

10 (j) The commission shall enter an agreement with the Texas  
11 Department of Transportation to explore and develop opportunities  
12 to divert scrap tires from land reclamation projects to recycling  
13 projects, including road maintenance programs operated by the  
14 department.

15 SECTION 46.02. (a) Before September 1, 2010, the Texas  
16 Commission on Environmental Quality shall adopt any rules required  
17 to implement Section 361.1127, Health and Safety Code, as added by  
18 this Act.

19 (b) On or after the effective date of this Act, any person  
20 responsible for an ongoing or pending land reclamation project  
21 using scrap tires that has not yet placed the tires below ground may  
22 not place the tires below ground until the person has obtained a  
23 permit under Section 361.1127, Health and Safety Code, as added by  
24 this Act.

25 (c) To the extent that a land reclamation project using  
26 scrap tires has placed tires below ground before the effective date  
27 of this Act, the project is subject to the law in effect on the date

1 the tires were placed below ground, and that law is continued in  
2 effect for that purpose.

3 (d) Before September 1, 2010, the Texas Commission on  
4 Environmental Quality shall enter the agreement with the Texas  
5 Department of Transportation as required by Section 361.1127(j),  
6 Health and Safety Code, as added by this Act.

7 Explanation: This change is necessary to create a system for  
8 regulating land reclamation projects using scrap tires through the  
9 issuance of permits.

10 (20) House Rule 13, Section 9(a)(2), is suspended to permit  
11 the committee to omit text not in disagreement by omitting amended  
12 Sections 21.101, 21.105, and 21.112, Transportation Code.

13 Explanation: The omission of the text is necessary so that  
14 the bill does not permit the expansion of eligibility for receipt of  
15 state grant funds for airport operations if the owner of the airport  
16 is eligible to receive funds under the federal airport improvement  
17 program.

18 (21) House Rule 13, Section 9(a)(2), is suspended to permit  
19 the committee to omit text not in disagreement by omitting added  
20 text relating to the creation, organization, governance, duties,  
21 and functions of the Texas Department of Motor Vehicles, including  
22 the transfer of certain duties to the Texas Department of Motor  
23 Vehicles and the Texas Department of Licensing and Regulation, and  
24 to the regulation of certain franchised motor vehicle dealers.

25 Explanation: The omission of the text is necessary because  
26 the provisions of law included in the omitted text have been  
27 substantially adopted under another Act of the 81st Legislature,

1 Regular Session, 2009.

2 (22) House Rule 13, Section 9(a)(2), is suspended to permit  
3 the committee to omit text not in disagreement by omitting added  
4 Section 456.009(c), Transportation Code.

5 Explanation: The omission of text is necessary to give the  
6 Texas Transportation Commission additional discretion in the  
7 allocation of funds under Subchapters B and C, Chapter 456,  
8 Transportation Code.

9 (23) House Rule 13, Section 9(a)(2), is suspended to permit  
10 the committee to omit text not in disagreement by omitting Sections  
11 284.0701(d) and (d-1), 284.0702(b) and (c), 366.178(f), (i), and  
12 (i-1), 370.177(e), (e-1), (g) and (i), Transportation Code.

13 Explanation: The omission is necessary because other  
14 legislation passed during the 81st Legislature, Regular Session,  
15 provided for these changes to the Transportation Code.

16 (24) House Rule 13, Sections 9(a)(3) and (4), are suspended  
17 to permit the committee to add ARTICLE 45 to the bill:

18 ARTICLE 45. PROHIBITION ON CERTAIN TRANSPORTATION FINANCING

19 SECTION 45.01. Subchapter G, Chapter 452, Transportation  
20 Code, is amended by adding Section 452.306 to read as follows:

21 Sec. 452.306. CERTAIN FUNDING PROHIBITED; APPROVAL OF ROUTE  
22 CHANGE. (a) This section applies only to a municipality that:

23 (1) has a population of more than 200,000 and less than  
24 250,000; and

25 (2) is located in a county in which another  
26 municipality with a population of more than one million is  
27 predominantly located.

1       (b) State funding or funding from any local option method of  
2 finance authorized at an election may not be used to directly or  
3 indirectly finance a project with the purpose of circumventing or  
4 moving the Orange Line of the authority to which this subchapter  
5 applies from its established proposed route directly into the  
6 operational area of the Dallas-Fort Worth International Airport  
7 located between Terminals A and B.

8       (c) Only if approved by resolution adopted by the governing  
9 body of a municipality to which this section applies may a deviation  
10 occur in the Orange Line route and alignment from Bachman Station in  
11 northwest Dallas, northwest to the Las Colinas Urban Center by the  
12 year 2011, continuing northwest to the Belt Line Station by the year  
13 2012, continuing to the northwest along the south side of State  
14 Highway 114, turning south along International Parkway, and not  
15 crossing State Highway 121 or State Highway 114 after entering onto  
16 Dallas-Fort Worth International Airport property to create the  
17 shortest, most direct route practicable to facilitate a direct  
18 connection to the operational area of Dallas-Fort Worth  
19 International Airport located between Terminals A and B by the year  
20 2013.

21       Explanation: This change is necessary to prohibit funding  
22 for projects that move certain proposed rail line routes of certain  
23 regional transportation authorities and to require municipal  
24 approval of any changes to those routes.

25       (25) House Rule 13, Sections 9(a)(3) and (4), are suspended  
26 to permit the committee to add new Sections 373.002(11), (12), and  
27 (13), Transportation Code, to read as follows:

1           (11) the IH 35E managed lanes project in Dallas and  
2 Denton Counties from IH 635 to US 380;

3           (12) the IH 30 managed lanes project from Baird Farm  
4 Road in Tarrant County to IH 35E in Dallas County; or

5           (13) the SH 183 managed lanes project in Dallas County  
6 from SH 161 to SH 114 in Irving and from SH 114 to IH 35E in Dallas.

7           Explanation: This change is necessary to add certain toll  
8 projects to the list of projects exempt from the application of the  
9 toll project primacy process.

10           (26) House Rule 13, Sections 9(a)(3) and (4), are suspended  
11 to permit the committee to add SECTION 8.01 to the bill:

12           SECTION 8.01. (a) Section 502.1725, Transportation Code,  
13 is amended by amending Subsections (a), (d), (e), (f), and (g) and  
14 adding Subsections (e-1), (f-1), (i), and (j) to read as follows:

15           (a) This section applies only to:

16           (1) a county:

17                   (A) [~~(1)~~] that borders the United Mexican  
18 States;

19                   (B) [~~(2)~~] that has a population of more than  
20 150,000 [~~300,000~~]; and

21                   (C) [~~(3)~~] in which the largest municipality has a  
22 population of less than 300,000; and

23           (2) a county that has a population of less than 50,000  
24 that:

25                   (A) borders the United Mexican States; and

26                   (B) contains at least one federal military base.

27           (d) A fee imposed under this section may take effect only on

1 January 1 of a year. The county must adopt the order and notify the  
2 department not later than September 1 of the year preceding the year  
3 in which the fee takes effect. A fee imposed under this section is  
4 not required to be annually reauthorized and remains in effect  
5 until removed as provided by Subsection (e).

6 (e) Subject to Subsection (e-1), a [A] fee imposed under  
7 this section may be removed. The removal may take effect only on  
8 January 1 of a year. A county may remove the fee only by:

9 (1) rescinding the order imposing the fee; and

10 (2) notifying the department not later than September  
11 1 of the year preceding the year in which the removal takes effect.

12 (e-1) If the revenue from a fee imposed under this section  
13 is pledged or assigned to secure the payment of obligations as  
14 provided by Subsection (f-1), the fee may not be removed until the  
15 obligations secured by the pledge or assignment have been paid or  
16 discharged.

17 (f) The county assessor-collector of a county imposing a fee  
18 under this section shall collect the additional fee for a vehicle  
19 when other fees imposed under this chapter are collected. The  
20 county shall deposit [~~send~~] the fee revenue in a special account in  
21 the county general fund. Money in the account may be used only for a  
22 purpose authorized under Section (7-a), Article VIII, Texas  
23 Constitution, and only to contract with:

24 (1) [~~to~~] the regional mobility authority of the county  
25 to promote and maintain a public purpose of the county that involves  
26 funding [~~fund~~] long-term transportation projects in the county;

27 (2) a transportation governmental entity designated



1 under Subsection (j) to promote and maintain a public purpose of the  
2 county that involves funding long-term transportation projects in  
3 the county; or

4 (3) a public or private entity developing a long-term  
5 transportation project in the county under an agreement with the  
6 county, the regional mobility authority of the county, or a  
7 transportation governmental entity designated under Subsection (j)  
8 to promote and maintain a public purpose of the county.

9 (f-1) Revenue from a fee imposed under this section may be  
10 pledged or assigned by the county, the regional mobility authority  
11 of the county with which the county contracts under Subsection (f),  
12 or a transportation governmental entity with which the county  
13 contracts under Subsection (f) to secure the payment of obligations  
14 associated with the development of long-term transportation  
15 projects in the county as provided by Subsection (f).

16 (g) The department shall collect the additional fee on a  
17 vehicle that is owned by a resident of a county imposing a fee under  
18 this section and that, under this chapter, must be registered  
19 directly with the department. The department shall send all fees  
20 collected for a county under this subsection to the county for  
21 deposit and use as provided by Subsection (f) or (f-1) [~~regional~~  
22 ~~mobility authority of the county to fund long-term transportation~~  
23 ~~projects in the county]~~.

24 (i) Notwithstanding Subsection (b), the fee imposed under  
25 this section by the commissioners court of a county to which this  
26 subsection applies may not exceed \$50. This subsection applies only  
27 to a county:

- 1           (1) that borders the United Mexican States;  
2           (2) that has a population of more than 150,000;  
3           (3) in which the largest municipality has a population  
4 of less than 300,000; and  
5           (4) that does not border the Gulf of Mexico.

6           (j) The department shall designate the governmental  
7 entities that serve primarily a transportation function and with  
8 which counties may contract under Subsection (f).

9           (b) This Section takes effect immediately if this Act  
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 Section takes effect September 1, 2009.

14           Explanation: This change is necessary to provide for  
15 authorization and imposition of optional fees on the registration  
16 of motor vehicles in certain counties.