

By: Carona

S.B. No. 1353

A BILL TO BE ENTITLED

AN ACT

relating to contract provisions in comprehensive development agreements.

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

SECTION 1. Subchapter C, Chapter 371, Transportation Code, as added by Chapter 264 (S.B. 792), Acts of the 80th Legislature, Regular Session, 2007, is amended by adding Section 371.105 to read as follows:

Sec. 371.105. PROHIBITION AGAINST CONCESSION PAYMENTS; REVENUE SHARING. (a) In this section, "concession payment" means an up-front payment made by a private participant in return for which the private participant is granted a right to operate and receive revenue from a toll project.

(b) A toll project entity is prohibited from accepting a concession payment as part of a comprehensive development agreement.

(c) A toll project entity may enter into a revenue sharing agreement with a private participant as part of a comprehensive development agreement.

(d) This section does not apply to:

(1) the State Highway 161 project from State Highway 183 to Interstate Highway 20 in Dallas County;

(2) the United States Highway 281 project in Bexar County from Loop 1604 to the Comal County line;

- 1 (3) the Loop 49 project from Interstate Highway 20 to
2 State Highway 110 in Smith County;
- 3 (4) the DFW Connector project in Tarrant and Dallas
4 Counties (State Highway 114 from State Highway 114L Business to
5 east of International Parkway and State Highway 121 from north of
6 Farm-to-Market Road 2499 to south of State Highway 360);
- 7 (5) the North Tarrant Express project in Tarrant and
8 Dallas Counties (Interstate Highway 820 and State Highway 121/State
9 Highway 183 from Interstate Highway 35W to State Highway 161,
10 Interstate Highway 820 east from State Highway 121/State Highway
11 183 to Randol Mill Road, and Interstate Highway 35W from Interstate
12 Highway 30 to State Highway 170);
- 13 (6) the United States Highway 290 project from east of
14 United States Highway 183 to east of Farm-to-Market Road 973 in
15 Travis County;
- 16 (7) the State Highway 99 (Grand Parkway) project;
- 17 (8) the Interstate Highway 635 managed lanes project
18 in Dallas County (Interstate Highway 635 from east of Luna Road to
19 Greenville Avenue and Interstate Highway 35E from south of the Loop
20 12/Interstate Highway 35E split to south of Valwood Parkway);
- 21 (9) Phase 4 extension of the Dallas North Tollway in
22 Collin and Denton Counties from United States Highway 380 to the
23 Grayson County line to be developed by North Texas Tollway
24 Authority;
- 25 (10) the Southwest Parkway (State Highway 121) in
26 Tarrant County from south of Dirks Road/Altamesa Boulevard to
27 Interstate Highway 30; or

1 (11) a comprehensive development agreement in
2 connection with a project associated with any portion of the Loop 9
3 project that is located in a nonattainment air quality area as
4 designated by the United States Environmental Protection Agency
5 that includes two adjacent counties that each have a population of
6 one million or more.

7 SECTION 2. Subsection (a), Section 371.151, Transportation
8 Code, as added by Chapter 264 (S.B. 792), Acts of the 80th
9 Legislature, Regular Session, 2007, is amended to read as follows:

10 (a) Before a toll project entity enters into a contract for
11 the construction of a toll project, the entity shall publish in the
12 manner provided by Section 371.152 information regarding:

13 (1) project financing, including:

14 (A) the total amount of debt that has been and
15 will be assumed to acquire, design, construct, operate, and
16 maintain the toll project;

17 (B) a description of how the debt will be repaid,
18 including a projected timeline for repaying the debt; and

19 (C) the projected amount of interest that will be
20 paid on the debt;

21 (2) whether the toll project will continue to be
22 tolled after the debt has been repaid;

23 (3) a description of the method that will be used to
24 set toll rates;

25 (4) a description of any terms in the contract
26 relating to competing facilities, including any penalties
27 associated with the construction of a competing facility;

1 (5) a description of any terms in the contract
2 relating to a termination for convenience provision, including any
3 information regarding how the value of the project will be
4 calculated for the purposes of making termination payments;

5 (6) the initial toll rates, the methodology for
6 increasing toll rates, and the projected toll rates at the end of
7 the term of the contract; and

8 (7) the terms of any revenue sharing agreement [~~the~~
9 ~~projected total amount of concession payments~~].

10 SECTION 3. (a) The changes in law made by Section 371.151,
11 Transportation Code, as amended by this Act, and Section 371.105,
12 Transportation Code, as added by this Act, apply only to a
13 comprehensive development agreement entered into on or after the
14 effective date of this Act.

15 (b) A comprehensive development agreement entered into
16 before the effective date of this Act is governed by the law in
17 effect on the day the agreement was finalized, and the former law is
18 continued in effect for that purpose.

19 SECTION 4. This Act takes effect September 1, 2009.