

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.

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

(a) Before a toll project entity enters into a contract for the construction of a toll project, the entity shall publish in the

1 manner provided by Section 371.152 information regarding:

2 (1) project financing, including:

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

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

8 (C) the projected amount of interest that will be  
9 paid on the debt;

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

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

14 (4) a description of any terms in the contract  
15 relating to competing facilities, including any penalties  
16 associated with the construction of a competing facility;

17 (5) a description of any terms in the contract  
18 relating to a termination for convenience provision, including any  
19 information regarding how the value of the project will be  
20 calculated for the purposes of making termination payments;

21 (6) the initial toll rates, the methodology for  
22 increasing toll rates, and the projected toll rates at the end of  
23 the term of the contract; and

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

26 SECTION 3. (a) The changes in law made by Section 371.151,  
27 Transportation Code, as amended by this Act, and Section 371.105,

1 Transportation Code, as added by this Act, apply only to a  
2 comprehensive development agreement entered into on or after the  
3 effective date of this Act.

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

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