

1-1 By: Carona S.B. No. 1353
1-2 (In the Senate - Filed March 4, 2009; March 17, 2009, read
1-3 first time and referred to Committee on Transportation and Homeland
1-4 Security; April 17, 2009, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 1;
1-6 April 17, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1353 By: Carona

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to contract provisions in comprehensive development
1-11 agreements.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter C, Chapter 371, Transportation Code,
1-14 as added by Chapter 264 (S.B. 792), Acts of the 80th Legislature,
1-15 Regular Session, 2007, is amended by adding Section 371.105 to read
1-16 as follows:

1-17 Sec. 371.105. PROHIBITION AGAINST CONCESSION PAYMENTS;
1-18 REVENUE SHARING. (a) In this section, "concession payment" means
1-19 an up-front payment made by a private participant in return for
1-20 which the private participant is granted a right to operate and
1-21 receive revenue from a toll project.

1-22 (b) A toll project entity is prohibited from accepting a
1-23 concession payment as part of a comprehensive development
1-24 agreement.

1-25 (c) A toll project entity may enter into a revenue sharing
1-26 agreement with a private participant as part of a comprehensive
1-27 development agreement.

1-28 (d) This section does not apply to:

1-29 (1) the State Highway 161 project from State Highway
1-30 183 to Interstate Highway 20 in Dallas County;

1-31 (2) the United States Highway 281 project in Bexar
1-32 County from Loop 1604 to the Comal County line;

1-33 (3) the Loop 49 project from Interstate Highway 20 to
1-34 State Highway 110 in Smith County;

1-35 (4) the DFW Connector project in Tarrant and Dallas
1-36 Counties (State Highway 114 from State Highway 114L Business to
1-37 east of International Parkway and State Highway 121 from north of
1-38 Farm-to-Market Road 2499 to south of State Highway 360);

1-39 (5) the North Tarrant Express project in Tarrant and
1-40 Dallas Counties (Interstate Highway 820 and State Highway 121/State
1-41 Highway 183 from Interstate Highway 35W to State Highway 161,
1-42 Interstate Highway 820 east from State Highway 121/State Highway
1-43 183 to Randol Mill Road, and Interstate Highway 35W from Interstate
1-44 Highway 30 to State Highway 170);

1-45 (6) the United States Highway 290 project from east of
1-46 United States Highway 183 to east of Farm-to-Market Road 973 in
1-47 Travis County;

1-48 (7) the State Highway 99 (Grand Parkway) project;

1-49 (8) the Interstate Highway 635 managed lanes project
1-50 in Dallas County (Interstate Highway 635 from east of Luna Road to
1-51 Greenville Avenue and Interstate Highway 35E from south of the Loop
1-52 12/Interstate Highway 35E split to south of Valwood Parkway);

1-53 (9) Phase 4 extension of the Dallas North Tollway in
1-54 Collin and Denton Counties from United States Highway 380 to the
1-55 Grayson County line to be developed by North Texas Tollway
1-56 Authority; or

1-57 (10) the Southwest Parkway (State Highway 121) in
1-58 Tarrant County from south of Dirks Road/Altamesa Boulevard to
1-59 Interstate Highway 30.

1-60 SECTION 2. Subsection (a), Section 371.151, Transportation
1-61 Code, as added by Chapter 264 (S.B. 792), Acts of the 80th
1-62 Legislature, Regular Session, 2007, is amended to read as follows:

1-63 (a) Before a toll project entity enters into a contract for

2-1 the construction of a toll project, the entity shall publish in the
2-2 manner provided by Section 371.152 information regarding:
2-3 (1) project financing, including:
2-4 (A) the total amount of debt that has been and
2-5 will be assumed to acquire, design, construct, operate, and
2-6 maintain the toll project;
2-7 (B) a description of how the debt will be repaid,
2-8 including a projected timeline for repaying the debt; and
2-9 (C) the projected amount of interest that will be
2-10 paid on the debt;
2-11 (2) whether the toll project will continue to be
2-12 tolled after the debt has been repaid;
2-13 (3) a description of the method that will be used to
2-14 set toll rates;
2-15 (4) a description of any terms in the contract
2-16 relating to competing facilities, including any penalties
2-17 associated with the construction of a competing facility;
2-18 (5) a description of any terms in the contract
2-19 relating to a termination for convenience provision, including any
2-20 information regarding how the value of the project will be
2-21 calculated for the purposes of making termination payments;
2-22 (6) the initial toll rates, the methodology for
2-23 increasing toll rates, and the projected toll rates at the end of
2-24 the term of the contract; and
2-25 (7) the terms of any revenue sharing agreement [~~the~~
2-26 ~~projected total amount of concession payments~~].
2-27 SECTION 3. (a) The changes in law made by Section 371.151,
2-28 Transportation Code, as amended by this Act, and Section 371.105,
2-29 Transportation Code, as added by this Act, apply only to a
2-30 comprehensive development agreement entered into on or after the
2-31 effective date of this Act.
2-32 (b) A comprehensive development agreement entered into
2-33 before the effective date of this Act is governed by the law in
2-34 effect on the day the agreement was finalized, and the former law is
2-35 continued in effect for that purpose.
2-36 SECTION 4. This Act takes effect September 1, 2009.

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