

## **BILL ANALYSIS**

C.S.H.B. 1363  
By: McClendon  
Transportation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Certain parties observe that permitting and enforcement functions relating to oversize and overweight vehicles remain at the Texas Department of Transportation (TxDOT), while other vehicle-related functions were transferred from TxDOT to the Texas Department of Motor Vehicles (TxDMV). Industry members say that oversize and overweight vehicle permitting and enforcement should be transferred to TxDMV as well, to reflect the importance of those functions. C.S.H.B. 1363 would transfer these important functions from TxDOT to TxDMV as part of the state's continuing effort to improve the administration of vehicle-related functions.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the board of the Texas Department of Motor Vehicles in SECTIONS 5, 13, and 17 of this bill.

It is the committee's opinion that rulemaking authority previously granted to the Texas Transportation Commission is transferred to the board of the Texas Department of Motor Vehicles in SECTIONS 2, 9, 10, 24, 33, and 36 of this bill.

It is the committee's opinion that rulemaking authority previously granted to the Texas Department of Transportation is transferred to the board of the Texas Department of Motor Vehicles in SECTIONS 18 and 28 of this bill.

It is the committee's opinion that rulemaking authority previously granted to the Texas Department of Transportation is transferred to the Texas Department of Motor Vehicles in SECTION 46 of this bill.

It is the committee's opinion that rulemaking authority previously granted to the Texas Department of Transportation is transferred to the Texas Transportation Commission in SECTION 4 of this bill.

### **ANALYSIS**

C.S.H.B. 1363 amends the Transportation Code to transfer to the Texas Department of Motor Vehicles (TxDMV), not later than January 1, 2012, the powers, duties, functions, programs, activities, and rights of action of the Texas Department of Transportation (TxDOT) relating to oversize and overweight vehicles under general provisions relating to vehicle size and weight, special provisions and exceptions for oversize or overweight vehicles, and provisions relating to permits for oversize or overweight vehicles. The bill provides for the transfer of related obligations, funds, negotiations, grants, memoranda of understanding, leases, rights, contracts, personnel, furniture, computers, equipment, other property, records, related materials, and appropriated funds from TxDOT to TxDMV.

C.S.H.B. 1363 requires TxDMV to continue any case or proceeding relating to the transferred duties and functions that was brought before the effective date of the bill in accordance with the

law in effect on the date the case or proceeding was brought. The bill specifies that a certificate, license, document, permit, registration, or other authorization issued by TxDOT relating to the transferred duties and functions that is in effect on the effective date of the bill remains valid for the period for which it was issued unless suspended or revoked by TxDMV. The bill transfers and reappropriates the unobligated and unexpended balance of any appropriations made to TxDOT in connection with or relating to the transferred duties and functions for the state fiscal biennium ending August 31, 2011, to TxDMV for the purpose of implementing the powers, duties, obligations, and rights of action transferred to TxDMV. The bill requires TxDOT to continue, as necessary, to perform the duties and functions that are being transferred to TxDMV until the transfer of duties and functions is complete. The bill establishes that a related rule or form adopted by TxDOT is a rule or form of TxDMV and remains in effect until altered by TxDMV and that a reference to TxDOT in related provisions of law means TxDMV.

C.S.H.B. 1363 authorizes TxDMV to enter into a memorandum of understanding with a state agency, including TxDOT, if the board of TxDMV determines that the memorandum is necessary or appropriate to implement the changes made by the bill's provisions. The bill authorizes the memorandum to perform the following: coordinate the information systems of TxDMV and TxDOT to allow for the sharing of information so each department may effectively and efficiently perform the functions and duties assigned to the department; provide for implementing the memorandum using existing personnel and resources from TxDMV and TxDOT; allow for the sharing of otherwise confidential information subject to the same confidentiality requirements and legal restrictions on access to the information that are imposed by law on the agency that originally obtained or collected the information; allow for the sharing of information without the consent of the person who is the subject of the information; and include an agreement for the provision of office space, utilities, and other facility services, the need for full-time equivalent positions of TxDOT to provide support services in addition to the positions transferred to TxDMV, support services, and the transfer of information technology as necessary or appropriate to effectuate the transfer of the powers and duties of TxDOT to TxDMV.

C.S.H.B. 1363 prohibits TxDMV and TxDOT from imposing, collecting, or charging a fee in connection with the sharing of information under a memorandum of understanding entered into or revised under the bill's provisions.

#### **Chapter 621. General Provisions Relating to Vehicle Size and Weight.**

C.S.H.B. 1363, for purposes of general provisions relating to vehicle size and weight, defines "department" to mean TxDMV, "director" to mean the executive director of TxDMV, and "board" to mean the board of TxDMV.

C.S.H.B. 1363 replaces the Texas Transportation Commission with the board of TxDMV in a rulemaking provision relating to a reciprocal agreement with another state for issuance of permits.

C.S.H.B. 1363 establishes that the director is the executive director of TxDOT in provisions relating to the admissibility of a certificate of vertical clearance.

C.S.H.B. 1363 replaces TxDOT with the commission in a rulemaking provision relating to restrictions on the weight and size of vehicles to be operated on state highways on certain holidays.

C.S.H.B. 1363 authorizes the board of TxDMV to adopt rules necessary to implement and enforce general provisions relating to vehicle size and weight.

C.S.H.B. 1363, in a provision establishing that a maximum weight or load set under provisions relating to the commission's authority to set maximum weights becomes effective on a highway

or road when appropriate signs giving notice of the maximum weight or load are erected under order of the commission, specifies that the maximum weight or load becomes effective when the appropriate signs are erected by TxDOT under order of the commission.

C.S.H.B. 1363, in a provision authorizing the commission, to comply with safety and operational requirements of federal law, to set the maximum width of a vehicle, including the load on the vehicle, at eight feet for a designated highway or segment of a highway if the results of an engineering and traffic study support the change, specifies that the commission is authorized to set that width if the results of an engineering and traffic study conducted by TxDOT support the change. The bill makes a conforming change.

C.S.H.B. 1363 establishes that the department is TxDOT in provisions relating to a county's authority to set maximum weights. The bill makes a conforming change regarding signs giving notice of the maximum weight set under these provisions.

C.S.H.B. 1363 replaces the commission with the board of TxDMV in a rulemaking provision relating to fees for permits issued under a reciprocal agreement.

C.S.H.B. 1363 replaces the commission with the board of TxDMV in provisions, including a rulemaking provision, relating to the form of payment for a permit fee.

C.S.H.B. 1363 establishes that the department is TxDOT in provisions relating to a bridge or underpass clearance.

#### **Chapter 622. Special Provisions and Exceptions for Oversize or Overweight Vehicles.**

C.S.H.B. 1363, for purposes of provisions relating to special provisions and exceptions for oversize or overweight vehicles, defines "commission" to mean the Texas Transportation Commission and "department" to mean TxDMV.

C.S.H.B. 1363 authorizes the board of TxDMV to adopt rules necessary to implement and enforce special provisions and exceptions for oversize or overweight vehicles.

C.S.H.B. 1363 establishes that the department is TxDOT in provisions relating to approval of a surety bond that is filed with TxDMV for vehicles transporting ready-mixed concrete or recyclable materials. The bill replaces the state with TxDOT in these provisions.

#### **Chapter 623. Permits for Oversize or Overweight Vehicles.**

C.S.H.B. 1363, for purposes of provisions relating to permits for oversize or overweight vehicles, defines "department" to mean TxDMV, "board" to mean the board of TxDMV, and "commission" to mean the Texas Transportation Commission.

C.S.H.B. 1363 authorizes the board of TxDMV to adopt rules necessary to implement and enforce provisions relating to permits for oversize or overweight vehicles. The bill requires TxDMV, to the extent that TxDMV is required to determine a route under these provisions, to base its routing decision on information provided by TxDOT. The bill requires TxDOT to provide TxDMV with all routing information necessary to complete a permit to move certain heavy equipment, a portable building unit, oil well servicing or drilling machinery, or unladen lift equipment motor vehicles.

C.S.H.B. 1363 replaces TxDOT with the board of TxDMV in a rulemaking provision relating to an additional administrative fee.

C.S.H.B. 1363 establishes that the department is TxDOT in provisions relating to a bond or letter of credit provided as security for a permit.

C.S.H.B. 1363 establishes that the department is TxDOT in provisions relating to recovery on permit security.

C.S.H.B. 1363 establishes that the department is TxDOT in provisions relating to a contract allowing an oversize or overweight vehicle to cross the road and requiring a surety bond.

C.S.H.B. 1363 establishes that the department is TxDOT in provisions relating to a contract allowing an overweight vehicle with commodities or products to cross a highway and requiring a surety bond.

C.S.H.B. 1363 establishes that the department is TxDOT in provisions relating to the amount of a bond filed with TxDMV in connection with the operation of heavy equipment.

C.S.H.B. 1363 replaces the commission with the board of TxDMV in provisions, including a rulemaking provision, relating to the payment of a permit fee. The bill requires an application for a permit to move certain heavy equipment to be accompanied by the permit fee established by the board of TxDMV in consultation with the commission, rather than the commission.

C.S.H.B. 1363 establishes that the department is TxDOT in provisions relating to the amount of a vehicle supervision fee. The bill requires the board of TxDMV, rather than TxDOT, to send each fee collected to the comptroller of public accounts for deposit to the credit of the state highway fund.

C.S.H.B. 1363 removes the authorization for a permit issued under provisions relating to heavy equipment to include the signature of a division engineer as an alternative to the signature of the director of TxDMV.

C.S.H.B. 1363 makes a nonsubstantive and conforming change in provisions relating to the contents of an application and permit to move a manufactured house.

C.S.H.B. 1363 requires the board of TxDMV in consultation with TxDOT, rather than TxDOT, to adopt rules concerning fees for certain annual permits issued in connection with the transportation of a manufactured house.

C.S.H.B. 1363 establishes that the department is TxDOT in provisions relating to an escort flag vehicle.

C.S.H.B. 1363 establishes that the department is TxDOT in provisions relating to the times and days of movement in connection with manufactured and industrialized housing.

C.S.H.B. 1363 removes the authorization for a permit issued under provisions relating to portable building units to be signed by a division engineer as an alternative to the director of TxDMV.

C.S.H.B. 1363 establishes that the department is TxDOT in provisions relating to a road or highway over which oil well servicing or drilling machinery may move under a permit issued by TxDMV.

C.S.H.B. 1363 requires the board of TxDMV in consultation with the commission, rather than the commission, by rule to provide for the issuance of permits under provisions relating to oil well servicing and drilling machinery and makes conforming changes. The bill establishes that a permit under those provisions is void on the failure of an owner or an owner's representative to comply with a rule of the board, rather than the commission.

C.S.H.B. 1363 establishes that the department is TxDOT in provisions relating to a surety bond

for vehicles transporting solid waste.

C.S.H.B. 1363 establishes that the department is TxDOT in provisions relating to a road or highway over which unladen lift equipment motor vehicles may move under a permit issued by TxDMV.

C.S.H.B. 1363 requires the board of TxDMV in consultation with the commission, rather than the commission, by rule to provide for the issuance of permits under provisions relating to unladen lift equipment motor vehicles and makes conforming changes. The bill establishes that a permit under those provisions is void on the failure of an owner or an owner's representative to comply with a rule of the board, rather than the commission.

C.S.H.B. 1363 replaces TxDOT with the commission in provisions relating to permits issued by a port authority.

C.S.H.B. 1363 establishes that the department is TxDOT in provisions relating to permit requirements for port authority permits.

C.S.H.B. 1363 establishes that the department is TxDOT in provisions relating to Victoria County Navigation District maintenance contracts and permit requirements.

C.S.H.B. 1363 establishes that the department is TxDOT in provisions relating to maintenance contracts in connection with Chambers County permits and with Port of Corpus Christi Authority special freight corridor permits.

#### **Other Chapters of the Transportation Code**

C.S.H.B. 1363 replaces TxDOT with TxDMV in provisions relating to the applicability of general provisions regarding vehicle lighting requirements.

C.S.H.B. 1363 makes a conforming change in provisions relating to the creation of TxDMV.

#### **Conforming Change in Occupations Code**

C.S.H.B. 1363 amends the Occupations Code to make conforming changes in provisions relating to the transportation of manufactured housing.

#### **EFFECTIVE DATE**

September 1, 2011.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 1363, in general provisions relating to vehicle size and weight, contains provisions not included in the original relating to the admissibility of a certificate of vertical clearance and restrictions on the weight and size of vehicles to be operated on state highways on certain holidays. The substitute contains a provision not included in the original authorizing the board of the Texas Department of Motor Vehicles (TxDMV) to adopt rules necessary to implement and enforce general provisions relating to vehicle size and weight.

C.S.H.B. 1363 differs from the original, in provisions relating to the authority of the Texas Transportation Commission to set maximum weights and widths, by specifying that limitations take effect when signs giving notice of the limitations are erected by the Texas Department of Transportation (TxDOT), whereas the original makes those provisions relate to the authority of the board of TxDMV to set maximum weights and widths. The substitute differs from the original by specifying that an engineering and traffic study on which a certain maximum width

may be based is an engineering and traffic study conducted by TxDOT.

C.S.H.B. 1363 differs from the original, in provisions relating to a county's authority to set maximum weight limits, by establishing that the department in those provisions is TxDOT, whereas the original makes a conforming change relating to its provisions establishing the authority of the board of TxDMV, rather than the commission, to set maximum weight limits.

C.S.H.B. 1363, in provisions relating to special provisions and exceptions for oversize or overweight vehicles, contains a provision not included in the original defining "commission" and authorizing the board of TxDMV to adopt rules necessary to implement and enforce those provisions. The substitute contains provisions not included in the original relating to vehicles transporting ready-mixed concrete or recyclable materials. The substitute omits a provision included in the original relating to a vehicle transporting certain agricultural products or processing equipment.

C.S.H.B. 1363, in provisions relating to permits for oversize or overweight vehicles, contains a provision not included in the original defining "commission" and authorizing the board of TxDMV to adopt rules necessary to implement and enforce those provisions. The substitute contains provisions not included in the original relating to route determination and an additional administrative fee. The substitute differs from the original by establishing that the department is TxDOT in provisions relating to a bond or letter of credit provided as security for a permit, whereas the original establishes that the department is TxDOT in provisions relating to security for a permit.

C.S.H.B. 1363 differs from the original by establishing that the department is TxDOT in provisions relating to the amount of a bond filed with TxDMV in connection with the operation of heavy equipment, whereas the original establishes that the department is TxDOT in provisions relating to the amount of a bond filed with TxDOT in connection with the operation of heavy equipment. The substitute differs from the original by requiring an application for a permit to move certain heavy equipment to be accompanied by the permit fee established by the board of TxDMV in consultation with the commission, whereas the original requires the application to be accompanied by the permit fee established by the board of TxDMV.

C.S.H.B. 1363 contains provisions not included in the original relating to a vehicle supervision fee, a permit issued under provisions relating to heavy equipment, a permit to move a manufactured house, certain annual permits in connection with the transportation of a manufactured house, an escort flag vehicle, and times and days of movement in connection with manufactured and industrialized housing, portable building units, and oil well servicing or drilling machinery.

C.S.H.B. 1363 differs from the original by requiring the board of TxDMV in consultation with the commission by rule to provide for the issuance of permits under provisions relating to oil well servicing and drilling machinery and to unladen lift equipment motor vehicles, whereas the original requires the board of TxDMV by rule to provide for the issuance of the permits.

C.S.H.B. 1363 contains provisions not included in the original relating to vehicles transporting solid waste and to unladen lift equipment motor vehicles.

C.S.H.B. 1363 contains provisions not included in the original relating to permits and permit requirements in connection with port authority permits; maintenance contracts and permit requirements in connection with Victoria County Navigation District permits; and maintenance contracts in connection with Port of Corpus Christi Authority special freight corridor permits.

C.S.H.B. 1363 omits provisions included in the original relating to route designation in connection with port authority permits; issuance of permits and rules in connection with Victoria County Navigation District permits; issuance of permits, maintenance contracts, and rules in

connection with Chambers County permits; rules in connection with Port of Corpus Christi Authority roadway permits; and issuance of permits and rules in connection with Port of Corpus Christi Authority special freight corridor permits.

C.S.H.B. 1363 omits a provision not included in the original relating to vehicle size and weight limits in connection with the Trans-Texas Corridor.

C.S.H.B. 1363 differs from the original by transferring powers, duties, functions, programs, activities, and rights of action relating to oversize and overweight vehicles, whereas the original transfers powers, duties, functions, programs, and activities. The substitute differs from the original by transferring related obligations, funds, negotiations, grants, memoranda of understanding, leases, rights, and contracts, whereas the original transfers related obligations and contracts. The substitute differs from the original by transferring related personnel, furniture, computers, equipment, other property, records, and materials, whereas the original transfers related property and records. The substitute omits a provision in the original relating to a memorandum of understanding to transfer personnel. The substitute contains provisions not included in the original relating to the continuation of any case or proceeding; validation of a certificate, license, or other authorization that is in effect on the effective date of the bill; the transfer and reappropriation of unobligated and unexpended balances; and the continuation of duties and functions. The substitute differs from the original by establishing that a rule or form or reference in law in connection with TxDOT that relates to a power, duty, function, program, activity, or right of action is a rule or form or reference in law in connection with TxDMV, whereas the original references a rule or form or reference in law that relates to a power, duty, function, program, or activity.

C.S.H.B. 1363 differs from the original by authorizing TxDMV to enter into a memorandum of understanding with a state agency, including TxDOT, and authorizing the memorandum to allow for the sharing of information and the provision of certain services, whereas the original requires TxDMV and TxDOT to enter into a memorandum of understanding to identify in detail the powers and duties that are transferred and establish a plan for the transfer of certain items and personnel.