

BILL ANALYSIS

C.S.S.B. 1420
By: Hinojosa
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The predecessor to the Texas Department of Transportation (TxDOT), the Texas Highway Department, was created in 1917 to direct county road construction programs. Since then, the Department's mission has evolved to delivering a 21st century transportation system by providing for the safe, efficient, and effective means for the movement of people and goods throughout the state.

TxDOT is subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the Legislature. This legislation contains provisions that are substantially similar to the Sunset legislation for the Department filed in the 81st legislative session, which failed to pass. As a result, the Department underwent a special purpose Sunset review, and this bill contains the recommendations that continue to be appropriate for consideration by this Legislature.

The Sunset Commission concluded that TxDOT has worked diligently to address many of the previous recommendations, but determined more time is needed to judge the depth and effect of the changes before trust and confidence in the Department is fully restored. This legislation continues the agency and contains several additional statutory modifications that seek to address the demand for more transparency, accountability, and responsiveness from the Department. Among other provisions, the bill replaces the Texas Transportation Commission with a single appointed Commissioner of Transportation and continues TxDOT for only four years to ensure that needed changes have occurred.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Transportation Commission (Commission) in SECTION 19, SECTION 21, SECTION 22, SECTION 24, SECTION 25, SECTION 37, SECTION 40, SECTION 44, and SECTION 46 of this bill.

Rulemaking authority is transferred from the Texas Department of Transportation to the Texas Transportation Commission in SECTION 54 of this bill.

Rulemaking authority is transferred from the Texas Transportation Commission to the Board of the Texas Department of Motor Vehicles in SECTION 52, SECTION 59, SECTION 60, and SECTION 74 of this bill.

Rulemaking authority is transferred from the Texas Transportation Commission to the Board of the Texas Department of Motor Vehicles, in consultation with the Texas Transportation Commission, in SECTION 83 and SECTION 86 of this bill.

Rulemaking authority is transferred from the Texas Department of Transportation to the Board of the Texas Department of Motor Vehicles in SECTION 68 of this bill.

Rulemaking authority is transferred from the Texas Department of Transportation to the Texas Department of Motor Vehicles in SECTION 96 of this bill.

Rulemaking authority is transferred from the Texas Department of Transportation to the Board of the Texas Department of Motor Vehicles, in consultation with the Texas Department of Transportation, in SECTION 78 of this bill.

Rulemaking authority is expressly granted to the Board of the Texas Department of Motor Vehicles in SECTION 55, SECTION 63, and SECTION 67 of this bill.

ANALYSIS

Continues TxDOT for four years

C.S.S.B. 1420 amends the Transportation Code to continue TxDOT for four years.

Governance

C.S.S.B. 1420 prohibits a member of the Transportation Commission from accepting a contribution to a campaign for elected office and specifies if a member of the Transportation Commission accepts a campaign contribution, the person is considered to have resigned from office.

Strengthens TxDOT's internal controls

The bill requires the Department to employ a Chief Financial Officer (CFO) who is a Certified Public Accountant licensed in good standing in Texas, and requires the CFO to report to the director. The bill specifies the CFO's duties and responsibilities, including overseeing the Department's financial activities. The bill authorizes the CFO to contract with experts and consultants to assist the Department with financial activities, and requires the CFO to ensure the Department's financial activities are conducted in a transparent and reliable manner. The bill specifies the provisions apply only to a CFO who begins employment on or after the effective date of the bill, September 1, 2011.

C.S.S.B. 1420 authorizes the Commission to offer the director optional participation in the Employees Retirement System of Texas (ERS). If the director elects not to be an ERS member, the bill increases the director's salary by the amount the state would have contributed to the retirement program for that position for that year. The bill also clarifies opting out of ERS does not affect the director's eligibility to participate in the group insurance benefits program.

C.S.S.B. 1420 requires all TxDOT employees to annually affirm their adherence to the Department's ethics policy and requires the Department to establish and operate a telephone hotline for reporting alleged fraud, waste, abuse, or violations of the ethics policy. The bill requires the Commission to consider whether an employee at or above the level of district engineer should be terminated if an annual evaluation indicates that the employee's performance is unsatisfactory. For an employee below the district engineer level, the bill requires the Department to consider whether an employee should be terminated if an annual evaluation indicates that the employee's performance is unsatisfactory, and to submit a report to the Commission regarding employees whose performance was unsatisfactory, but who were not terminated. The bill also requires the performance evaluations to include evaluation of an employee's professionalism, diligence, and responsiveness to directives and requests from the Commission and Legislature.

The bill requires TxDOT to submit a complete and detailed financial audit conducted by an independent certified public accountant to the Sunset Commission in conjunction with each of the Department's Sunset reviews. The bill specifies this provision does not apply if the Department is subject to Sunset review during the previous two-year period.

Allows for the appointment of an inspector general

C.S.S.B. 1420 authorizes the Commission to appoint an inspector general who reports to the Commission. The bill specifies the responsibilities of the inspector general, including the requirement to audit the Department's financial condition and the efficiency of its business practices; evaluate the efficiency of the its administrative practices and performance, and the need for standardization; identify the need and opportunities for reductions in staff and for a better or differently skilled workforce; study the implementation of and improvement to a commitment-based budget or outcome-based business plan; identify ways to streamline the environmental approval process; evaluate compliance with applicable laws and legislative intent; and evaluate the efficient use of available funding, personnel, equipment, and office space.

C.S.S.B. 1420 provides for coordination between the inspector general and the State Auditor in conducting reviews and specifies that an inspector general's review does not take precedence over the state auditor's review. The bill provides for the sharing of information between the two and entitles the State Auditor to all information maintained by the inspector general and specifies the information is confidential and not subject to disclosure under the Public Information Act. The bill requires the

inspector general to prepare a final report for each review, including a summary of the activities performed in conducting the review and a description of any findings in connection with the review. The bill provides that reports are subject to disclosure under the Public Information Act. The bill requires final reports that concern the implementation or administration of a state or federally funded program be submitted to the Commission and executive director, Governor, Lieutenant Governor, Speaker of the House of Representatives, State Auditor, and appropriate legislative oversight committees, unless otherwise prohibited.

Strengthens TxDOT's lobbying prohibitions

C.S.S.B. 1420 prohibits the Commission or a Department employee from using any money under the Department's control or engaging in an activity to influence the passage or defeat of legislation. The bill specifies that violation of these requirements is grounds for dismissal of an employee. C.S.S.B. 1420 also prohibits the Department from spending any of its appropriation to select, hire, or retain a lobbyist, unless the expenditure is allowed under other law. The bill specifies that these prohibitions do not prohibit the Commission or Department employee from using state resources to provide public information or information responsive to a request; or to communicate with the federal government regarding federal appropriations and programs. The bill also repeals statutory provisions requiring the Transportation Commission and its chair to report to the Legislature on statutory changes and legislative recommendations to improve the operation of the Department.

Requires TxDOT to develop a comprehensive, transparent, and easily understandable planning program and reporting system for transportation projects in the state

Statewide Transportation Plan. C.S.S.B. 1420 adds to existing statutory provisions relating to the long-range Statewide Transportation Plan to integrate all of TxDOT's long-range planning efforts into a single, measurable plan covering at least 20 years. The bill requires the Statewide Transportation Plan to include the Statewide Transportation Improvement Program, a 10-year Developmental Program, and specific, long-term transportation goals for all modes of transportation. The bill requires the Statewide Transportation Plan to include specific, long-term transportation goals for the state, measurable targets for each goal, and provides for the Department to consider these goals and targets in selecting transportation projects. The bill also requires the plan to include a participation plan for obtaining input from state and local entities and the public on the goals and project priorities and provides for these entities to participate in an existing memorandum of understanding process for transportation planning. The bill defines local transportation entity. The bill requires the Statewide Transportation Plan to identify priority projects or areas of the State that are of particular concern to the Department in meeting the goals. The bill requires the Department, in developing each of its transportation plans and policy efforts, to clearly reference the Statewide Transportation Plan and how the plan or policy effort supports or relates to its goals. The bill requires both TxDOT and Metropolitan Planning Organizations to work together to develop mutually acceptable funding assumptions to use in long-term transportation planning. The bill requires the Department to annually provide an analysis of its progress towards meeting the statewide transportation goals identified in the Statewide Transportation Plan and to make this information available on its website. The bill requires TxDOT to update the plan every four years or more frequently as necessary.

Project Information Reporting System. C.S.S.B. 1420 requires the Department to establish an online project information reporting system containing easily accessible and searchable information about all of the Department's transportation plans. The bill requires TxDOT to post the information on its website as it becomes available and in a manner that is not cost prohibitive, to update the information on a regular basis as specified in rule, and to make the information available in more than one downloadable electronic format. The bill requires the reporting system to contain information about each TxDOT project, including its status, funding source, benchmarks for evaluating project progress, timelines for completion, and other factors; each construction work zone for a project that exceeds one month or \$5 million; road maintenance projects; and TxDOT funds, including sources and expenditures reported by district, program funding category and type of revenue. C.S.S.B. 1420 requires TxDOT to collaborate with the Legislature, local transportation entities, and the public in developing the project information reporting system. The bill also requires TxDOT to annually review the benchmarks and timelines of each project in its transportation plans to determine completion rates and timeliness of project completion.

Transportation Expenditure Priorities. C.S.S.B. 1420 requires TxDOT to develop a process to identify and distinguish between transportation projects required to maintain and projects to improve the state infrastructure. The bill also requires TxDOT to establish an online transportation expenditure reporting

system to provide easily accessible and searchable information about the priorities of expenditures for identified transportation projects. The bill requires the transportation expenditure reporting system to include a list of the most significant transportation problems in each district, and an evaluation of the effectiveness of expenditures on transportation projects to achieve transportation goals. The bill also requires the system to include information about pavement and bridge condition; traffic congestion and delays; and the number of traffic accidents, injuries, and fatalities. The bill requires the information in the transportation expenditure reporting system to be in a format allowing electronic searches according to a specific county, highway under the Department's jurisdiction, or type of road. The bill requires the Department to establish criteria to prioritize the transportation needs of the state, consistent with the Statewide Transportation Plan. C.S.S.B. 1420 requires each TxDOT district to enter certain information into the transportation expenditure reporting system. The bill also requires the system to allow comparison between the information it contains and the project information reporting system.

Statewide Transportation Report. The bill requires the Department to annually evaluate and publish a report regarding the status of each transportation goal for the state including the progress of long-term goals identified by the Statewide Transportation Plan, the status of major priority projects, a summary of statewide project implementation benchmarks completed, and information about the accuracy of previous Department financial forecasts. The bill requires the Department to disaggregate the information in the report by Department district, provide a copy to each member of the Legislature for each Department district located in the member's legislative district, and to meet with the member upon request to explain the report. The bill also requires the Department to provide a copy of the report to political subdivisions located in the Department district that is the subject of the report and to put reports on the Department's website. The bill also allows the Department to combine required reports to avoid duplication.

10-year Developmental Program. C.S.S.B. 1420 establishes TxDOT's transportation programming process, the 10-year Developmental Program, in statute as part of the Statewide Transportation Plan and makes conforming changes for TxDOT's "unified transportation" program as its "developmental" program. The bill requires the Developmental Program to annually identify target funding levels and list all projects the Department intends to develop or begin construction of during the program period. The bill requires the Commission, in collaboration with local transportation entities, to adopt specific elements of the Developmental Program in rule, such as specifying criteria for selecting projects; defining funding categories; and defining each phase of a major transportation project. The bill requires TxDOT, in collaboration with local transportation entities, to annually update the Developmental Program and provides certain elements the update must include. The bill also requires TxDOT to annually forecast all funds the Department expects to receive and use the forecast to guide planning for the developmental program. The bill requires TxDOT to collaborate with local transportation entities to develop the forecast and to prepare and publish a 20-year cash flow forecast by September 1 of each year. The bill also requires TxDOT to publish the Developmental Program and summary documents, as part of the entire Statewide Transportation Plan, in appropriate media and on its website in an easily understandable format.

Major Transportation Projects. The bill requires the Commission, by rule and in collaboration with local transportation entities, to establish criteria for designating a project as a major transportation project, to develop benchmarks for evaluating a project's progress and timelines for its implementation and construction, and to determine critical benchmarks that must be met before the project may enter the implementation phase of the Developmental Program. The bill requires the Department to update the list of major transportation projects annually.

Priority Projects in Program Categories. The bill requires the Commission by rule to establish categories in the Developmental Program, assign each identified project to a category, and designate the priority ranking of each project within each category. The bill requires the highest priority projects within an applicable category of the Developmental Program to be projects designated as major transportation projects. The bill requires the Commission to collaborate with local transportation entities when assigning projects to categories.

Funding Allocation Formulas and Categories. C.S.S.B. 1420 sets out specific requirements for funding allocation formulas and categories in the Developmental Program. The bill requires the Commission to specify formulas in rule for allocating funds to districts and Metropolitan Planning Organizations according to specific categories, including preventive maintenance and rehabilitation of the state highway system in all districts; mobility and added capacity projects in metropolitan and urban areas; mobility and added capacity projects on major state highways that provide statewide connectivity between urban areas

and highway system corridors; congestion mitigation and air quality improvement projects in nonattainment areas; metropolitan mobility and added capacity projects in designated metropolitan planning areas; transportation enhancements project funding; and projects eligible for federal or state funding, as determined by the applicable district engineer. For all other categories, the bill requires the Commission to determine the allocation of funds, subject to applicable state and federal law, including a category for projects of specific importance to the State, including projects that promote economic opportunity, increase efficiency on military deployment routes or retain military assets, and maintain the ability of emergency response. C.S.S.B. 1420 requires the Commission to update the formulas at least every four years, and to consider the input of specified stakeholders when determining the amount of funding in each program funding category and when selecting projects in a program funding category. The bill requires all funds received by the Department for highways, including toll roads and toll road systems, that may be allocated in the State's or Department's discretion to be allocated by formula to each district and Metropolitan Planning Organization. The bill requires the formulas to be based on performance measures and criteria, including at least: centerline miles, level of congestion, percentage of population below federal poverty level, population, safety, and vehicle miles traveled.

Work Program. C.S.S.B. 1420 requires each TxDOT district to develop a consistently formatted work program based on the Developmental Program, containing all of the projects the district proposes to implement during a four-year period. The bill requires the district work programs to include information about the progress of major transportation projects according to the benchmarks and timelines established in the Developmental Program, and a summary of the progress on other district projects. The bill requires the Department to use the work programs to monitor and evaluate the performance of districts and district employees, and to publish the work programs in appropriate media and on its website.

Requires TxDOT to establish a complaints process

C.S.S.B. 1420 requires the Department to maintain a system to promptly and efficiently act on complaints. The bill requires the Commission to adopt rules applicable to each Department division and district to establish a process to act on complaints filed with the Department. The bill requires the Department to develop a complaint form available on its website and establish a method to submit complaints electronically. The bill also requires the Department to analyze complaints and to use the analysis to focus information and education efforts. The bill requires the Department to compile statistics and complaint information, and to report the information on a monthly basis to the division directors, office directors, and district engineers and quarterly to the Commission. The bill also updates standard language developed by the Sunset Commission regarding complaint files and complaint information.

Requires TxDOT to develop a public involvement policy

C.S.S.B. 1420 requires TxDOT to develop and implement a policy that guides and encourages public involvement with the Department. The bill specifies certain requirements for the policy, including techniques for targeting different groups and encouraging continuous involvement in the transportation decisionmaking process. The bill also requires the Department to make certain efforts, including tying public involvement to decisions made by the Department and requiring a person who makes or submits a public comment to disclose whether the person does business with TxDOT, may benefit from a project, or is a Department employee. The bill also requires the Department to document the number of positive, negative, or neutral public comments received regarding all environmental impact statements and to present this information in an open meeting of the Commission and report this information on the Department's website.

Improves TxDOT's contracting functions

C.S.S.B. 1420 authorizes TxDOT to enter into design-build contracts for nontolled highway projects. The bill defines a design-build contract as an agreement with a private entity for the design and construction, rehabilitation, expansion, or improvement of a highway project but does not include the financing or operation of the highway. C.S.S.B. 1420 requires the Department to use a competitive procurement process that provides the best value if the Department enters into a design-build contract. The bill also requires the Commission to adopt rules specifying the conditions under which a design-build contract may be considered and requires the Commission, in developing the rules, to address the size and complexity of the project; time constraints; level and training of staff needed to manage the project; and other factors the commission considers important.

C.S.S.B. 1420 requires the Department to give notice rather than publish notice regarding the time and place at which its construction and maintenance bids on a contract will be opened and the contract awarded, and removes language regarding publishing notice in local newspapers. The bill requires the Commission to determine, by rule, the most effective method for providing notice.

Transfer oversize and overweight vehicle regulation to DMV

C.S.S.B. 1420 transfers the regulation of oversize and overweight vehicles from TxDOT to the Texas Department of Motor Vehicles (DMV) no later than January 1, 2012, with TxDOT retaining a consulting and supporting function, and makes conforming changes throughout the bill to reflect the respective responsibilities of each agency and its governing body. The bill transfers TxDOT's powers, duties, functions, programs, activities, personnel, and related materials, property, and records relating to the regulation of oversize and overweight vehicles under Transportation Code, Chapters 621, 622, and 623 to DMV, except as otherwise provided in the Act. The bill also provides for transfers to DMV including any obligations, funds, leases, rights, and contracts of TxDOT related to its oversize and overweight powers and duties and includes the transfer to DMV of the unobligated and unexpended balance of any appropriation made to TxDOT for these purposes for the upcoming biennium. The bill also provides transitional language regarding proceedings brought before the effective date of the transfer and the validity of a certificate, license, or permit in effect on the effective date of the transfer. The bill provides for TxDOT to continue performing duties and functions being transferred until the transfer is complete and provides for TxDOT rules and forms to remain in effect until changed by DMV. The bill allows the DMV to enter into a memorandum of understanding (MOU) with a state agency, including TxDOT, to implement the transfer and outlines items the MOU may contain, including provisions to coordinate information systems, and provide facility, personnel, and support services.

The bill provides specific rulemaking authority to the DMV Board under the statutes relating to oversize and overweight regulation. The bill authorizes the DMV Board, instead of the Transportation Commission, to enter into and establish fees for reciprocal agreements with other states regarding oversize and overweight permits and to administer fees for certain oversize and overweight vehicle permits. The bill provides for the DMV Board, instead of TxDOT, to send the vehicle supervision fee for certain heavy vehicles to the comptroller for deposit to the state highway fund. The bill provides for the DMV Board, in consultation with the Transportation Commission, to establish permitting fees and other permitting requirements for moving certain equipment, machinery, and buildings over roads under TxDOT's jurisdiction.

The bill provides conforming changes for DMV, instead of TxDOT, to cooperate with the Texas Department of Housing and Community Affairs regarding certain aspects related to moving manufactured housing.

The bill provides for TxDOT to retain responsibility for certain oversize and overweight matters, including the certification of vertical clearance of structures such as bridges or underpasses for purposes of operating vehicles; erecting signs regarding weight and load limits; conducting engineering and traffic studies related to setting maximum width of a vehicle; concurring on load limits for county roads or bridges established by commissioners courts; administering surety bond and other indemnification provisions for the cost of maintenance and repair for damage caused by operating certain overweight vehicles; establishing a vehicle supervision fee for certain heavy vehicles; identifying bridges and overpasses requiring escorts to control traffic for manufactured housing; limiting hours of travel by manufactured housing due to heavy traffic conditions; and receiving reports from port authorities and certain navigation districts on oversize and overweight permits they issue and providing for payments to TxDOT for maintenance of state highways. The bill requires TxDOT to provide routing information to DMV to complete permits for moving certain equipment, machinery, and buildings.

The bill provides for the Transportation Commission, instead of the Department, to restrict weight and size of vehicles on state highways on certain holidays; and to authorize port authorities to issue permits for oversize and overweight vehicles on state highways on certain coastal and border counties.

Requires outdoor advertising regulation to follow common regulatory practices

C.S.S.B. 1420 standardizes the regulation of outdoor advertising by requiring a license to operate outdoor advertising on rural roads, matching the license requirements and standard enforcement provisions that

currently exist for outdoor advertisers on federal-aid roads. The bill authorizes outdoor advertisers to operate on both road systems with a single license, and authorizes the Department to deny license renewal if a license holder has not complied with permit requirements on either type of road. The bill provides for standard administrative penalty authority as an enforcement tool for regulating outdoor advertising on both types of roads, removing the language that a violation be intentional before an administrative penalty can be assessed on a violator operating on a rural road and providing for judicial review of such a penalty under substantial evidence instead of trial de novo. The bill eliminates TxDOT's Board of Variance for hearing appeals of rural road sign permit denials, and instead authorizes the executive director or designee to grant variances from rural road sign standards.

C.S.S.B. 1420 provides for the State Highway Fund, currently used to administer the regulation of outdoor advertising on rural roads, to also administer these regulations on federal-aid roads. The bill streamlines the collection and tracking of revenues relating to the regulation of outdoor advertising by requiring all program fees and fines collected for both types of roads to be deposited into the State Highway Fund. The bill requires fees collected for signs along federal-aid roads, currently deposited into the Texas Highway Beautification Fund Account in the General Revenue Fund, be deposited into the State Highway Fund instead and removes the Highway Beautification Fund Account from statute.

C.S.S.B. 1420 requires the Commission to establish standard procedures in rule for accepting and resolving complaints relating to the regulation of outdoor advertising signs on federal-aid and rural roads. The bill requires the Department to make information about complaint procedures available on its website and to keep an information file about each complaint filed with the Department. The bill requires TxDOT to provide information about complaint procedures to each person who files a complaint or who is the subject of a complaint, and to regularly notify the parties to the complaint about the complaint status. The bill also requires TxDOT to develop procedures for prioritizing complaints, and compiling and reporting detailed annual statistics about complaints.

Requires electronic signs to be actively managed

C.S.S.B. 1420 requires TxDOT, in cooperation with local governments, to actively manage a system of changeable message signs located on highways under the Department's jurisdiction to mitigate traffic congestion by providing current information including traffic incidents, weather conditions, road construction, and alternative routes when applicable. The bill defines changeable message sign.

Authorizes transferring of highway right-of-way

The bill authorizes the Commission to waive payment for a highway that is removed from the state highway system and transferred to a governmental entity that will maintain the highway for public road purposes. The bill stipulates that if the highway right-of-way ceases to be used for public road purposes, it will be returned to the state.

Applies and conforms standard Sunset across-the-board provisions

C.S.S.B. 1420 adds standard Sunset language requiring the Commission to develop a policy that encourages the use of negotiated rulemaking and alternative dispute resolution. The bill also updates Sunset language regarding conflicts of interest, eligibility, designation of Commission chair, grounds for removal, and other administrative matters to apply to a commission member when taking office or serving in that position, rather than upon appointment, and makes other conforming changes.

The bill repeals the following statutory provision:

- Transportation Code, § 201.045

EFFECTIVE DATE

Except as otherwise provided by this Act, this Act takes effect September 1, 2011.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute applies a definition of "local transportation entity" to Transportation Code, Chapter 201; whereas the original bill applied the definition to only one subchapter of the Transportation Code relating to the Unified Transportation Program.

C.S.S.B. 1420 adds language not in the original bill requiring TxDOT to employ a chief financial officer (CFO). The substitute requires the CFO to report to the director rather than directly to the Commission as provided for in the original bill. The substitute adds a requirement that the CFO to be a certified public accountant licensed in good standing in Texas, and adds language specifying the CFO's duties.

C.S.S.B. 1420 adds language not in the original bill authorizing the Commission to offer the director optional participation in the Employees Retirement System of Texas (ERS) and clarifying that opting out of ERS does not affect the director's eligibility to participate in the group insurance benefits program.

The substitute adds a requirement not in the original bill for TxDOT to submit a complete and detailed financial audit conducted by an independent certified public accountant to the Sunset Commission in conjunction with the Department's Sunset reviews and exempts the Department from this requirement if the Department has been under Sunset review for the previous two-year period.

The substitute adds language not in the original bill prohibiting the Department from spending any money appropriated to it to select, hire, or retain a lobbyist, unless the expenditure is allowed under other law.

C.S.S.B. 1420 adds language not in the original bill requiring the Commission to consider whether an employee at or above the district engineer level should be terminated if an annual performance evaluation indicates unsatisfactory performance. For employees below the district engineer level, the substitute adds language requiring the Department to consider whether the employee should be terminated. The substitute also adds language not in the original bill requiring the director, director's designee, or Department to provide a report to the Commission regarding employees whose performances were unsatisfactory, but were not terminated.

C.S.S.B. 1420 adds language not in the original bill authorizing the Commission to appoint an inspector general who reports to the Commission. The substitute outlines the inspector general's duties and responsibilities, sets out provisions for coordination with the State Auditor, and requires the inspector general to submit final reports to the Transportation Commission and director, Governor, Lieutenant Governor, Speaker of the House of Representatives, State Auditor, and appropriate legislative oversight committees.

The substitute requires the Statewide Transportation Plan to cover a period of at least 20 years; whereas the original bill specified a period of 24 years. The substitute makes related conforming changes throughout the substitute.

C.S.S.B. 1420 adds language not in the original bill requiring the Statewide Transportation Plan to include the statewide transportation improvement program; a 10-year developmental program; and specific, long-term transportation goals for all modes of transportation.

The substitute removes a reference to "corridors" in the original bill regarding prioritization of transportation goals.

The substitute removes references to "programs" in the original bill regarding integration of plans and policy efforts.

C.S.S.B. 1420 removes language in the original bill authorizing the Department to expend federal money and matching state money on certain transportation projects and programs that are not on the state highway system and limiting the expenditure of state money to certain functions. The substitute also removes language in the original bill authorizing the Department to contract for work on a transportation project not on the state highway system in the same manner as for work on a transportation project that is on the state highway system or to authorize, by rule, a local government to enter into a contract for the work in the same manner as a local government is authorized to contract for work on a comparable project on the state highway system.

The substitute removes language in the original bill that authorizes and sets out the process and requirements for a local government sponsor or the Department to prepare an environmental review document for highway projects that meet certain criteria specified in the original bill language. The substitute also removes the provision authorizing the Transportation Commission to adopt rules to implement this environmental review process and removes language in the original bill requiring the Transportation Commission, by rule, to establish standards for processing such environmental review documents for a highway project, including review deadlines. The substitute removes language in the

original bill authorizing a local government sponsor and the Department to enter into an agreement that defines the relative roles and responsibilities of the parties in the preparation and review of environmental review documents for a specific project, and authorizing the Federal Highway Administration to be a party to such an agreement in specified instances. The substitute also removes provisions in the original bill requiring the Department to submit certain related reports to the Commission and Legislature, and post them on the Department's website.

C.S.S.B. 1420 maintains language in the original bill requiring the Department to maintain a system for addressing complaints, but adds a provision to require the Department to compile the number of similar complaints filed as well as the number of persons who filed each complaint as part of the analysis of complaints.

The substitute amends provisions in the original bill regarding the project information reporting system. The substitute removes a definition of "department project" in the original bill. The substitute adds language not in the original bill requiring the system to include information about each construction work zone for a project that has a construction phase timeline that exceeds one month or the cost of which exceeds \$5 million, and including additional specified information. C.S.S.B. 1420 adds language not in the original bill requiring the system to include information about road maintenance projects, including specified criteria. The substitute requires reporting on each expenditure made by the Department; whereas the original bill required reporting on the amount and general type or purpose of each expenditure as described in the Comptroller's statewide accounting system.

C.S.S.B. 1420 amends provisions in the original bill regarding transportation expenditure priorities. The substitute adds language not in the original bill requiring the transportation expenditure reporting system to include a list of the most significant transportation problems in each Department district as described by the Statewide Transportation Plan. The substitute adds language not in the original bill requiring the system to include information about the international roughness index issued by the Federal Highway Administration for each highway under the Department's jurisdiction. The substitute adds language not in the original bill requiring the system to include information about bridges that are structurally deficient or functionally obsolete. C.S.S.B. 1420 requires the system to include information about traffic congestion and traffic delays, including the locations of the worst traffic delays, the variable travel time for major streets and highways in the state, and the effect of traffic congestion on motor vehicle travel and motor carriers; whereas the original bill requires the system to include information about "peak hour" travel congestion in the eight largest metropolitan areas of the state and does not require traffic delay information. The substitute requires the system to include information about the number of traffic accidents, injuries, and fatalities, including a list of the locations in each Department district for the highest number of traffic accidents, injuries, or fatalities; whereas the original bill requires the system to include information about the number of traffic fatalities per 100 million miles traveled.

The substitute removes an instructional provision in the original bill requiring TxDOT to establish the central location on the Department's website by September 1, 2011 for reports required under the Transportation Code.

C.S.S.B. 1420 adds language not in the original bill requiring a person who makes or submits a public comment to disclose whether the person does business with TxDOT, may benefit from a project, or is a TxDOT employee.

The substitute changes the name of the "Unified Transportation Program" in the original bill to refer instead to the "Developmental Program," and makes related conforming changes throughout the substitute. The substitute adds language not in the original bill requiring the Developmental Program to be a part of the Statewide Transportation Plan and requiring the Developmental Program to be published as part of the entire Statewide Transportation Plan.

C.S.S.B. 1420 amends provisions in the original bill regarding funding allocation and fund distribution. The substitute adds language not in the original bill requiring the Commission to consider the input of Metropolitan Planning Organizations (MPOs), transportation officials, local government officials, and other stakeholders when determining the amount of funding in each program funding category. The substitute adds language not in the original bill requiring the Department to cooperate with MPOs and other stakeholders when selecting projects in a program funding category. The substitute adds language not in the original bill requiring all funds received by the Department for highways, including toll roads and systems, that may be allocated in the state's or Department's discretion, to be allocated by formula to

each district and MPO based on performance measures, including minimum criteria. The substitute removes fund distribution language in the original bill that required the Department to allocate funds to TxDOT districts based on formulas and prohibited the Department from exceeding the cash flow forecast when distributing funds to districts.

C.S.S.B. 1420 amends provisions in the original bill regarding design-build contracts for nontolled highway projects. The substitute removes language in the original bill allowing maintenance of a highway project to be included in design-build contracts for nontolled highway projects. The substitute changes language in the original bill authorizing design-build contracts for nontolled highway projects by removing a reference to Government Code, Chapter 2254. The substitute requires the Commission to adopt rules specifying the conditions under which a design-build contract may be considered and requires the Commission, in developing the rules, to address certain conditions, including the time constraints for delivery of an eligible project and the level and training of the staff required to manage an eligible project. The original bill requires the Commission to adopt rules to implement the law and requires the rules to establish criteria for selecting projects, including consideration of the timeliness of project completion under the proposed schedule, but does not include the language regarding the level and training of staff required to manage an eligible project. The original bill also contains language not in the substitute requiring the rules to establish procedures for selecting a developer for projects in a design-build contract.

C.S.S.B. 1420 removes the requirement in the original bill requiring TxDOT to conduct a study to determine improvements to the regulation of oversize and overweight vehicles. The substitute instead adds language not in the original bill that transfers the regulation of oversize and overweight vehicles from TxDOT to the Texas Department of Motor Vehicles (DMV) no later than January 1, 2012, including transferring the powers, duties, functions, programs, activities, personnel, real property, rulemaking authority, and records relating to the regulation of oversize and overweight vehicles under Transportation Code, Chapters 621, 622, and 623 to DMV except as otherwise provided in the Act. The substitute also adds language not in the original bill requiring transfers including any obligations, funds, leases, rights, and contracts of TxDOT related to its oversize and overweight powers and duties and includes the transfer of unobligated and unexpended balance of any appropriation made to TxDOT for these purposes for the upcoming biennium. The substitute also contains transitional language not in the original bill regarding proceedings brought before the effective date of the transfer and the validity of a certificate, license, or permit in effect on the effective date of the transfer. The substitute also adds language not in the original bill providing for TxDOT to continue performing duties and functions being transferred until the transfer is complete and providing for TxDOT rules and forms to remain in effect until changed by DMV. The substitute also adds language not in the original bill that allows DMV to enter into a memorandum of understanding (MOU) with a state agency, including TxDOT, to implement the transfer and outlines items the MOU may contain, including provisions to coordinate information systems, allow for sharing of confidential information, and provide facility, personnel, and support services.

C.S.S.B. 1420 makes changes not in the original bill to lay out the respective responsibilities of TxDOT and the Transportation Commission and DMV and its Board under the transfer of responsibilities related to oversize and overweight vehicles.

The substitute makes changes not in the original bill relating to responsibilities for the DMV Board relating to oversize and overweight vehicles, including administering certain fees for oversize and overweight vehicle permits and reciprocal agreements with other states. The substitute also makes changes providing for the DMV Board, in consultation with the Transportation Commission, to establish permitting fees and other permitting requirements for moving certain equipment, machinery, and buildings on roads under TxDOT's jurisdiction.

The substitute makes changes not in the original bill clarifying TxDOT's responsibilities for matters including clearance of structures, such as bridges and overpasses; signage; engineering and traffic studies to set maximum vehicle widths; concurring with counties on load limits on county roads and bridges; administering surety bond and other indemnification provisions for related roadway maintenance and repair costs; safety and traffic requirements for moving manufactured housing; and working with port authorities and navigation districts on oversize and overweight permitting and certain payments these entities make to TxDOT for state highway maintenance. The substitute also adds language not in the original bill for TxDOT to provide routing information to DMV to complete certain permits.

The substitute makes changes not in the original bill providing for the Transportation Commission to restrict oversized and overweight traffic on certain holidays and for the Commission to authorize port authorities to issue oversized and overweight permits in certain counties.

C.S.S.B. 1420 repeals law requiring the Transportation Commission and its chair to report to the Legislature on statutory changes and legislative recommendations to improve the operation of the Department, rather than striking this language as the original bill did.