

By: Phillips

H.B. No. 2255

Substitute the following for H.B. No. 2255:

By: Harper-Brown

C.S.H.B. No. 2255

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the authority of the Texas Department of Transportation  
3 and regional mobility authorities to enter into comprehensive  
4 development agreements for certain projects.

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

6 SECTION 1. Section 223.201, Transportation Code, is amended  
7 by amending Subsections (f) and (i) and adding Subsections (j),  
8 (k), (l), (m), (n), (o), (p), and (q) to read as follows:

9 (f) The department may [~~Except as provided by Subsections~~  
10 ~~(h) and (i), the authority to~~] enter into a comprehensive  
11 development agreement only for all or part of:

12 (1) the State Highway 99 (Grand Parkway) project;

13 (2) the Interstate Highway 35E managed lanes project  
14 in Dallas and Denton Counties from Interstate Highway 635 to U.S.  
15 Highway 380;

16 (3) the North Tarrant Express project in Tarrant and  
17 Dallas Counties, including:

18 (A) on State Highway 183 from State Highway 121  
19 to State Highway 161 (Segment 2E);

20 (B) on Interstate Highway 35W from Interstate  
21 Highway 30 to State Highway 114 (Segments 3A, 3B, and 3C); and

22 (C) on Interstate Highway 820 from State Highway  
23 183 North to south of Randol Mill Road (Segment 4).

24 (4) the State Highway 183 managed lanes project in

1 Dallas County from State Highway 161 to Interstate Highway 35E; and  
2 (5) the State Highway 249 project in Harris and  
3 Montgomery Counties from Spring Cypress Road to Farm-to-Market Road  
4 1774 [~~agreements provided by this section expires on August 31,~~  
5 2009].

6 (i) The authority to enter into a comprehensive development  
7 agreement for a project described by Subsection (f), other than the  
8 State Highway 99 (Grand Parkway) project, or a project described by  
9 Section 91.054 [~~exempted from Subsection (f) or Section 223.210(b)]~~  
10 expires August 31, 2015 [2011].

11 (j) Before the department may enter into a comprehensive  
12 development agreement under Subsection (f), the department must:

13 (1) obtain the appropriate environmental clearance  
14 not later than September 1, 2012, for any project other than the  
15 State Highway 99 (Grand Parkway) project;

16 (2) present to the commission a full financial plan  
17 for the project, including costing methodology and cost proposals;  
18 and

19 (3) pay the full cost of procuring the agreement.

20 (k) A comprehensive development agreement for the North  
21 Tarrant Express project may be comprised of a combination of  
22 agreements with one or more private entities.

23 (l) A comprehensive development agreement for the North  
24 Tarrant Express project may provide for negotiating and entering  
25 into facility agreements for future phases or segments of the  
26 project at the times that the department considers advantageous to  
27 the department.

1       (m) The department is not required to use any further  
2 competitive procurement process to enter into one or more related  
3 facility agreements with the successful proposer or affiliates of  
4 the successful proposer for a comprehensive development agreement  
5 for the North Tarrant Express project.

6       (n) The department may include or negotiate any matter in a  
7 comprehensive development agreement for the North Tarrant Express  
8 project that the department considers advantageous to the  
9 department.

10       (o) A comprehensive development agreement for the North  
11 Tarrant Express project may provide the private participant with a  
12 right of first negotiation under which the private participant or  
13 its affiliates may elect to negotiate with the department and enter  
14 into one or more related facility agreements for future phases or  
15 segments of the project without the need to participate in any  
16 further competitive procurement process.

17       (p) The department has exclusive judgment to determine the  
18 terms of a comprehensive development agreement for the North  
19 Tarrant Express project, including the matters to be negotiated  
20 following selection of the private participant and the timing of  
21 negotiations.

22       (q) The department may not develop a project under this  
23 section as a project under Chapter 227.

24       SECTION 2. Subchapter E, Chapter 223, Transportation Code,  
25 is amended by adding Section 223.2011 to read as follows:

26       Sec. 223.2011. LIMITED AUTHORITY FOR CERTAIN PROJECTS USING  
27 COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) Notwithstanding

1 Section 223.201(f) and Sections 370.305(d) and (f), the department  
2 or an authority under Section 370.003 may enter into a  
3 comprehensive development agreement relating to improvements to,  
4 or construction of:

5 (1) the Loop 1 (MoPac Improvement) project from  
6 Farm-to-Market Road 734 to Cesar Chavez Street;

7 (2) a project consisting of the construction of:

8 (A) the Outer Parkway Project from U.S. Highway  
9 77/83 to Farm-to-Market Road 1847; and

10 (B) the South Padre Island Second Access Causeway  
11 Project from State Highway 100 to Park Road 100; or

12 (3) a project identified as part of the Hidalgo County  
13 Loop System or the La Joya Bypass project.

14 (b) Before the department or an authority may enter into a  
15 comprehensive development agreement under this section, the  
16 department or the authority, as applicable, must meet the  
17 requirements under Section 223.201(j).

18 (c) The authority to enter into a comprehensive development  
19 agreement under this section expires August 31, 2015.

20 SECTION 3. Section 223.201(h), Transportation Code, is  
21 repealed.

22 SECTION 4. (a) A governmental act taken or a decision made  
23 by the Texas Department of Transportation and the Texas  
24 Transportation Commission under Subchapter E, Chapter 223,  
25 Transportation Code, before the effective date of this Act, to  
26 negotiate, execute, or otherwise enter into a comprehensive  
27 development agreement or facility agreement relating to the North

1 Tarrant Express Project is conclusively presumed, as of the date  
2 the act or decision occurred, to be valid and to have occurred in  
3 accordance with all applicable law.

4 (b) This Act does not validate any governmental act or  
5 decision that:

6 (1) was void at the time the act or decision occurred;

7 (2) violates the terms of federal law or a federal  
8 waiver; or

9 (3) was a misdemeanor or a felony under a statute of  
10 this state or the United States at the time the act or decision  
11 occurred.

12 (c) This Act does not apply to any matter that on the  
13 effective date of this Act:

14 (1) is involved in litigation if the litigation  
15 ultimately results in the matter being held invalid by a final court  
16 judgment; or

17 (2) has been held invalid by a final court judgment.

18 SECTION 5. This Act takes effect immediately if it receives  
19 a vote of two-thirds of all the members elected to each house, as  
20 provided by Section 39, Article III, Texas Constitution. If this  
21 Act does not receive the vote necessary for immediate effect, this  
22 Act takes effect September 1, 2011.