

By: Harper-Brown

H.B. No. 2675

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Department of Transportation; providing penalties.

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

SECTION 1. (a) Section 201.003, Transportation Code, is amended to read as follows:

Sec. 201.003. TITLE AND ORGANIZATIONAL CHANGES. (a) A reference in law to the State Highway Department, Texas Highway Department, or State Department of Highways and Public Transportation means the Texas Department of Transportation.

(b) A reference in law to the State Highway Commission, ~~[or]~~ State Highway and Public Transportation Commission, or Texas Transportation Commission means the commissioner of transportation ~~[Texas Transportation Commission]~~.

(c) A reference in law to the State Highway Engineer, the ~~[or]~~ State Engineer-Director for Highways and Public Transportation, or ~~[means]~~ the director of the Texas Department of Transportation means the commissioner of transportation.

(d) A reference in law to the chair of the commission means the commissioner of transportation ~~[means the chair of the commission]~~.

(e) A ~~[reference in]~~ law that authorizes the Texas Transportation Commission to authorize the director of the Texas Department of Transportation to take an action shall be construed

1 to authorize the commissioner of transportation to take that action
2 ~~[to a member of the commission means a commissioner].~~

3 (b) This section takes effect on the date the initial
4 commissioner of transportation takes office.

5 SECTION 2. (a) Subchapter B, Chapter 201, Transportation
6 Code, is amended to read as follows:

7 SUBCHAPTER B. COMMISSIONER OF ~~[TEXAS]~~ TRANSPORTATION ~~[COMMISSION]~~

8 Sec. 201.051. COMMISSIONER ~~[COMMISSION]~~. (a) The
9 commissioner is appointed by the governor with the advice and
10 consent of the senate for a term of two years that expires February
11 1 of each odd-numbered year. If the governor does not appoint the
12 commissioner before February 28 of an odd-numbered year, the
13 lieutenant governor shall appoint the commissioner. A commissioner
14 appointed by the lieutenant governor is not subject to confirmation
15 by the senate. ~~[Texas Transportation Commission consists of five~~
16 ~~members appointed by the governor with the advice and consent of the~~
17 ~~senate.]~~

18 (b) The commissioner may not accept a contribution to a
19 campaign for election to an elected office. If the commissioner
20 accepts a campaign contribution, the person is considered to have
21 resigned from the office and the office immediately becomes vacant.
22 The vacancy shall be filled in the manner provided by law ~~[members~~
23 ~~shall be appointed to reflect the diverse geographic regions and~~
24 ~~population groups of this state. One member must reside in a rural~~
25 ~~area].~~

26 (b-1) A member of the commission may not accept a
27 contribution to a campaign for election to an elected office. If a

1 commissioner accepts a campaign contribution, the person is
2 considered to have resigned from the office and the office
3 immediately becomes vacant. The vacancy shall be filled in the
4 manner provided by law. This subsection expires on the date
5 Subsection (b) takes effect.

6 (c) A [~~Each member of the commission must represent the~~
7 ~~general public.~~

8 [~~(d) Except as provided by Subsection (e), a~~] person is not
9 eligible to serve [~~for appointment~~] as commissioner [~~a member of~~
10 ~~the commission~~] if the person or the person's spouse:

11 (1) is employed by or participates in the management
12 of a business entity or other organization that is regulated by or
13 receives funds from the department;

14 (2) directly or indirectly owns or controls more than
15 10 percent interest in a business entity or other organization that
16 is regulated by or receives funds from the department;

17 (3) uses or receives a substantial amount of tangible
18 goods, services, or funds from the department, other than
19 compensation or reimbursement authorized by law for [~~commission~~
20 ~~membership, attendance, or~~] expenses; or

21 (4) is registered, certified, or licensed by the
22 department.

23 (d) [~~(f)~~] An officer, employee, or paid consultant of a
24 Texas trade association in the field of road construction or
25 maintenance, aviation, or outdoor advertising is not eligible to
26 serve as commissioner [~~or a Texas trade association of automobile~~
27 ~~dealers may not be a member of the commission~~].

1 (e) [~~(g)~~] The spouse of an officer, manager, or paid
2 consultant of a Texas trade association in the field of road
3 construction or maintenance, aviation, or outdoor advertising is
4 not eligible to serve as commissioner [~~or a Texas association of~~
5 ~~automobile dealers may not be a member of the commission~~].

6 (f) [~~(h)~~] A person required to register as a lobbyist under
7 Chapter 305, Government Code, because of the person's activities
8 for compensation on behalf of a profession related to the operation
9 of the department is not eligible to serve as commissioner [~~may not~~
10 ~~serve as a member of the commission~~].

11 (g) The appointment of the commissioner [~~(i) Appointments~~
12 ~~to the commission~~] shall be made without regard to race, color,
13 disability, sex, religion, age, or national origin of the appointee
14 [~~appointees and shall reflect the diversity of the population of~~
15 ~~the state as a whole~~].

16 (h) [~~(j)~~] In this section, "Texas trade association" means a
17 [~~nonprofit,~~] cooperative[~~7~~] and voluntarily joined statewide
18 association of business or professional competitors in this state
19 designed to assist its members and its industry or profession in
20 dealing with mutual business or professional problems and in
21 promoting their common interest.

22 (i) The commissioner is a successor to the Texas
23 Transportation Commission for all purposes, including for the
24 purposes of the following sections of Article III, Texas
25 Constitution:

26 (1) Sections 49-k, 49-l, and 49-m;

27 (2) Section 49-n, as added by H.J.R. 28, Acts of the

1 78th Legislature, Regular Session, 2003; and

2 (3) Sections 49-o and 49-p.

3 Sec. 201.052. CERTAIN DUTIES. (a) [~~TERMS. Members of the~~
4 ~~commission serve staggered six-year terms, with the terms of either~~
5 ~~one or two members expiring February 1 of each odd-numbered year.~~

6 [~~Sec. 201.053. CHAIR OF THE COMMISSION. (a) The governor~~
7 ~~periodically shall designate one commissioner as the chair of the~~
8 ~~commission, who shall serve as presiding officer of the commission.~~

9 [(b)] The commissioner [~~chair~~] shall:

10 (1) [~~preside over commission meetings, make rulings on~~
11 ~~motions and points of order, and determine the order of business,~~

12 [(2)] represent the department in dealing with the
13 governor;

14 (2) [(3)] report to the governor on the state of
15 affairs of the department at least quarterly;

16 (3) [(4)] ~~report to the commission the governor's~~
17 ~~suggestions for department operations,~~

18 [(5)] report to the governor on efforts, including
19 legislative requirements, to maximize the efficiency of department
20 operations through the use of private enterprise;

21 (4) [(6)] periodically review the department's
22 organizational structure and submit recommendations for structural
23 changes to the governor[~~, the commission,~~] and the Legislative
24 Budget Board;

25 (5) [(7)] designate one or more employees of the
26 department as a civil rights division of the department and receive
27 regular reports from the division on the department's efforts to

1 comply with civil rights legislation and administrative rules;

2 (6) [~~(8)~~] ~~create subcommittees, appoint commissioners~~
3 ~~to subcommittees, and receive the reports of subcommittees to the~~
4 ~~commission as a whole;~~

5 [~~(9)~~] appoint a deputy commissioner to act in the
6 commissioner's [~~chair's~~] absence; and

7 (7) [~~(10)~~] serve as the departmental liaison with the
8 governor and the Office of State-Federal Relations to maximize
9 federal funding for transportation.

10 (b) Subject to the General Appropriations Act, the
11 commissioner may employ any additional personnel necessary for the
12 department to perform the department's duties under this chapter.

13 [~~Sec. 201.054. COMMISSION MEETINGS. The commission shall~~
14 ~~hold regular meetings at least once a month and special meetings at~~
15 ~~the call of the chair. Commissioners shall attend the meetings of~~
16 ~~the commission. The chair shall oversee the preparation of an~~
17 ~~agenda for each meeting and ensure that a copy is provided to each~~
18 ~~commissioner at least seven days before the meeting.~~

19 [~~Sec. 201.0545. RECOMMENDATIONS TO LEGISLATURE. (a) The~~
20 ~~commission shall consider ways in which the department's operations~~
21 ~~may be improved and may periodically report to the legislature~~
22 ~~concerning potential statutory changes that would improve the~~
23 ~~operation of the department.~~

24 [~~(b) On behalf of the commission, the chair shall report to~~
25 ~~the governor, the lieutenant governor, the speaker of the house of~~
26 ~~representatives, and the presiding officers of relevant~~
27 ~~legislative committees on legislative recommendations adopted by~~

1 ~~the commission and relating to the operation of the department.]~~

2 Sec. 201.053 [~~201.056~~]. COMPENSATION. The commissioner [A
3 ~~member of the commission~~] is entitled to compensation as provided
4 by the General Appropriations Act. [~~If compensation for members is~~
5 ~~not provided by that Act, each member is entitled to reimbursement~~
6 ~~for actual and necessary expenses incurred in performing functions~~
7 ~~as a member of the commission.]~~

8 Sec. 201.054 [~~201.057~~]. GROUNDS FOR REMOVAL. (a) It is a
9 ground for removal [~~from the commission~~] if the [~~a~~] commissioner:

10 (1) does not have at the time of taking office
11 [~~appointment~~] or maintain during service as commissioner [~~on the~~
12 ~~commission~~] the qualifications required by Section 201.051;

13 (2) violates a prohibition provided by Section
14 201.051; or

15 (3) cannot discharge the commissioner's duties for a
16 substantial part of the term for which the commissioner is
17 appointed because of illness or disability[~~, or~~

18 [~~(4) is absent from more than half of the regularly~~
19 ~~scheduled commission meetings that the commissioner is eligible to~~
20 ~~attend during a calendar year, unless the absence is excused by~~
21 ~~majority vote of the commission].~~

22 (b) The validity of an action of the commissioner or
23 department [~~commission~~] is not affected by the fact that it is taken
24 when a ground for removal of the [~~a~~] commissioner exists.

25 [~~(c) If the director knows that a potential ground for~~
26 ~~removal exists, the director shall notify the chair of the~~
27 ~~commission of the ground, and the chair shall notify the governor~~

1 ~~and the attorney general that a potential ground for removal~~
2 ~~exists. If the potential ground for removal relates to the chair,~~
3 ~~the director shall notify another commissioner, who shall notify~~
4 ~~the governor and the attorney general that a potential ground for~~
5 ~~removal exists.]~~

6 Sec. 201.055 [~~201.058~~]. INFORMATION ON QUALIFICATIONS AND
7 CONDUCT. The department shall provide to the commissioner [~~members~~
8 ~~of the commission~~], as often as necessary, information concerning
9 the commissioner's [~~members'~~] qualifications for office and the
10 commissioner's [~~under Subchapter B and their~~] responsibilities
11 under applicable laws relating to standards of conduct for state
12 officers.

13 Sec. 201.056 [~~201.059~~]. TRAINING ON DEPARTMENT AND CERTAIN
14 LAWS RELATING TO DEPARTMENT. (a) To be eligible to take office as
15 commissioner [~~a member of the commission~~], a person appointed as
16 commissioner [~~to the commission~~] must complete [~~at least one course~~
17 ~~of~~] a training program that complies with this section.

18 (b) The training program must provide information to the
19 person regarding:

- 20 (1) this subchapter;
- 21 (2) the programs operated by the department;
- 22 (3) the role and functions of the department;
- 23 (4) the rules of the department, with an emphasis on
24 the rules that relate to disciplinary and investigatory authority;
- 25 (5) the current budget for the department;
- 26 (6) the results of the most recent formal audit of the
27 department;

1 (7) the requirements of the:

2 (A) open meetings law, Chapter 551, Government
3 Code;

4 (B) open records law, Chapter 552, Government
5 Code; and

6 (C) administrative procedure law, Chapter 2001,
7 Government Code;

8 (8) the requirements of the conflict of interest laws
9 and other laws relating to public officials; and

10 (9) any applicable ethics policies adopted by the
11 department ~~[commission]~~ or the Texas Ethics Commission.

12 ~~[(c) A person appointed to the commission is entitled to
13 reimbursement for travel expenses incurred in attending the
14 training program, as provided by the General Appropriations Act and
15 as if the person were a member of the commission.]~~

16 (b) Not later than December 1, 2011, the governor shall
17 appoint the initial commissioner of transportation to a term
18 expiring February 1, 2013. This subsection takes effect September
19 1, 2011.

20 (c) On the date the initial commissioner of transportation
21 that is appointed under this section takes office, the Texas
22 Transportation Commission is abolished.

23 (d) Section 201.051(b-1), Transportation Code, as added by
24 this Act, takes effect September 1, 2011.

25 (e) The commissioner of transportation succeeds to all
26 powers, duties, rights, and obligations of the Texas Transportation
27 Commission, and the abolition of the Texas Transportation

1 Commission does not affect the validity of any right, duty,
2 decision, rule, or action of any kind taken by or under the
3 authority of the commission.

4 (f) Except as provided by Subsections (b) and (d) of this
5 section, this section takes effect on the date the initial
6 commissioner of transportation takes office.

7 SECTION 3. Section 201.102, Transportation Code, is amended
8 to read as follows:

9 Sec. 201.102. DIVISION [~~SEPARATION~~] OF RESPONSIBILITIES.
10 The commissioner [~~commission~~] shall develop and implement policies
11 that clearly define [~~separate~~] the respective [~~policy-making~~]
12 responsibilities of the commissioner [~~commission~~] and the
13 [~~management responsibilities of the director and~~] staff of the
14 department.

15 SECTION 4. Subchapter C, Chapter 201, Transportation Code,
16 is amended by adding Section 201.118 to read as follows:

17 Sec. 201.118. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE
18 RESOLUTION PROCEDURES. (a) The commission shall develop and
19 implement a policy to encourage the use of:

20 (1) negotiated rulemaking procedures under Chapter
21 2008, Government Code, for the adoption of department rules; and

22 (2) appropriate alternative dispute resolution
23 procedures under Chapter 2009, Government Code, to assist in the
24 resolution of internal and external disputes under the department's
25 jurisdiction.

26 (b) The department's procedures relating to alternative
27 dispute resolution must conform, to the extent possible, to any

1 model guidelines issued by the State Office of Administrative
2 Hearings for the use of alternative dispute resolution by state
3 agencies.

4 (c) The department shall:

5 (1) coordinate the implementation of the policy
6 adopted under Subsection (a);

7 (2) provide training as needed to implement the
8 procedures for negotiated rulemaking or alternative dispute
9 resolution; and

10 (3) collect data concerning the effectiveness of those
11 procedures.

12 SECTION 5. (a) Section 201.202, Transportation Code, is
13 amended by adding Subsection (c) to read as follows:

14 (c) A person designated by the commission as the
15 department's chief financial officer must report directly to the
16 commission.

17 (b) This section takes effect on the date the initial
18 commissioner of transportation takes office.

19 SECTION 6. Section 201.204, Transportation Code, is amended
20 to read as follows:

21 Sec. 201.204. SUNSET PROVISION. The Texas Department of
22 Transportation is subject to Chapter 325, Government Code (Texas
23 Sunset Act). Unless continued in existence as provided by that
24 chapter, the department is abolished September 1, 2015 [~~2011~~].

25 SECTION 7. Subchapter D, Chapter 201, Transportation Code,
26 is amended by adding Sections 201.210 and 201.211 to read as
27 follows:

1 Sec. 201.210. LEGISLATIVE LOBBYING. (a) In addition to
2 Section 556.006, Government Code, the commission or a department
3 employee may not use money under the department's control or engage
4 in an activity to influence the passage or defeat of legislation.

5 (b) Violation of Subsection (a) is grounds for dismissal of
6 an employee.

7 (c) This section does not prohibit the commission or
8 department employee from using state resources to:

9 (1) provide public information or information
10 responsive to a request; or

11 (2) communicate with officers and employees of the
12 federal government in pursuit of federal appropriations.

13 Sec. 201.211. ETHICS AFFIRMATION AND HOTLINE. (a) A
14 department employee shall annually affirm the employee's adherence
15 to the ethics policy adopted under Section 572.051(c), Government
16 Code.

17 (b) The department shall establish and operate a telephone
18 line to be known as the Ethics Hotline that enables a person to call
19 the hotline number, anonymously or not anonymously, to report an
20 alleged violation of the ethics policy adopted under Section
21 572.051(c), Government Code.

22 SECTION 8. The heading to Subchapter E, Chapter 201,
23 Transportation Code, is amended to read as follows:

24 SUBCHAPTER E. STATE ROAD MAP; UNIVERSITY LABORATORIES [~~DIRECTOR~~]

25 SECTION 9. Section 201.301, Transportation Code, is amended
26 by adding Subsection (f) to read as follows:

27 (f) This section expires December 1, 2011.

1 SECTION 10. Section 201.401(a), Transportation Code, is
2 amended to read as follows:

3 (a) A person may not be an employee of the department who is
4 employed in a "bona fide executive, administrative, or professional
5 capacity," as that phrase is used for purposes of establishing an
6 exemption to the overtime provisions of the federal Fair Labor
7 Standards Act of 1938 (29 U.S.C. Section 201 et seq.), [~~exempt from~~
8 ~~the state's position classification plan or compensated at or above~~
9 ~~the amount prescribed by the General Appropriations Act for step 1,~~
10 ~~salary group 17, of the position classification salary schedule] if
11 the person is:~~

12 (1) an officer, employee, or paid consultant of a
13 Texas trade association[+]

14 [~~(A)~~] in the field of road construction or
15 maintenance or outdoor advertising; or

16 [~~(B) of automobile dealers; or~~]

17 (2) the spouse of an officer, manager, or paid
18 consultant described by Subdivision (1).

19 SECTION 11. Section 201.404(b), Transportation Code, is
20 amended to read as follows:

21 (b) The director or the director's designee shall develop a
22 system of annual performance evaluations that are based on
23 documented employee performance. All merit pay for department
24 employees must be based on the system established under this
25 subsection. If an annual performance evaluation indicates that an
26 employee's performance is unsatisfactory, the commission shall
27 consider whether the employee should be terminated. The annual

1 performance evaluations developed under this subsection must
2 include the evaluation of an employee's:
3 (1) professionalism;
4 (2) diligence; and
5 (3) responsiveness to directives and requests from the
6 commission and the legislature.

7 SECTION 12. Section 201.601, Transportation Code, is
8 amended to read as follows:

9 Sec. 201.601. STATEWIDE TRANSPORTATION PLAN. (a) The
10 department shall develop a statewide transportation plan covering a
11 period of 24 years that contains all modes of transportation,
12 including:

- 13 (1) highways and turnpikes;
- 14 (2) aviation;
- 15 (3) mass transportation;
- 16 (4) railroads and high-speed railroads; and
- 17 (5) water traffic.

18 (a-1) The plan must:

19 (1) contain specific, long-term transportation goals
20 for the state and measurable targets for each goal;

21 (2) identify priority corridors, projects, or areas of
22 the state that are of particular concern to the department in
23 meeting the goals established under Subdivision (1); and

24 (3) contain a participation plan specifying methods
25 for obtaining formal input on the goals and priorities identified
26 under this subsection from:

- 27 (A) other state agencies;

1 (B) political subdivisions;

2 (C) local transportation entities; and

3 (D) the general public.

4 (b) ~~[In developing the plan, the department shall seek~~
5 ~~opinions and assistance from other state agencies and political~~
6 ~~subdivisions that have responsibility for the modes of~~
7 ~~transportation listed by Subsection (a).]~~ As appropriate, the
8 department and the entities listed in Subsection (a-1)(3) ~~[such an~~
9 ~~agency or political subdivision]~~ shall enter into a memorandum of
10 understanding relating to the planning of transportation services.

11 (c) The plan must include a component that is not
12 financially constrained and identifies transportation improvements
13 designed to relieve congestion. In developing this component of
14 the plan, the department shall seek opinions and assistance from
15 officials who have local responsibility for modes of transportation
16 listed in Subsection (a).

17 (d) ~~[The plan shall include a component, published~~
18 ~~annually, that describes the evaluation of transportation~~
19 ~~improvements based on performance measures, such as indices~~
20 ~~measuring delay reductions or travel time improvements.]~~ The
21 department shall consider the goals and measurable targets
22 established under Subsection (a-1)(1) ~~[the performance measures]~~
23 in selecting transportation projects ~~[improvements]~~.

24 (e) The department annually shall provide to the lieutenant
25 governor, the speaker of the house of representatives, and the
26 chair of the standing committee of each house of the legislature
27 with primary jurisdiction over transportation issues an analysis of

1 the department's progress in attaining the goals under Subsection
2 (a-1)(1). The department shall make the information under this
3 subsection available on its Internet website.

4 (f) The department shall update the plan every four years.

5 SECTION 13. Subchapter H, Chapter 201, Transportation Code,
6 is amended by adding Sections 201.6015 and 201.620 to read as
7 follows:

8 Sec. 201.6015. INTEGRATION OF PLANS AND POLICY EFFORTS. In
9 developing each of its transportation plans and policy efforts, the
10 department must clearly reference the 24-year plan under Section
11 201.601 and specify how the plan or policy effort supports or
12 otherwise relates to the specific goals under that section.

13 Sec. 201.620. COORDINATION WITH METROPOLITAN PLANNING
14 ORGANIZATIONS TO DEVELOP LONG-TERM PLANNING ASSUMPTIONS. The
15 department shall collaborate with metropolitan planning
16 organizations to develop mutually acceptable assumptions for the
17 purposes of long-range federal and state funding forecasts and use
18 those assumptions to guide long-term planning in the statewide
19 transportation plan under Section 201.601.

20 SECTION 14. (a) Section 201.801, Transportation Code, is
21 amended to read as follows:

22 Sec. 201.801. [~~INFORMATION ABOUT DEPARTMENT,~~
23 COMPLAINTS. (a) The department shall maintain a system to promptly
24 and efficiently act on complaints filed with the department. The
25 department shall maintain information about the parties to and the
26 subject matter of a complaint and a summary of the results of the
27 review or investigation of the complaint and the disposition of the

1 complaint.

2 **(b)** The department shall make information available
3 describing its procedures for complaint investigation and
4 resolution [~~prepare information of public interest describing the~~
5 ~~functions of the department and the department's procedures by~~
6 ~~which a complaint is filed with the department and resolved by the~~
7 ~~department. The department shall make the information available to~~
8 ~~the public and appropriate state agencies].~~

9 ~~[(b) The commission by rule shall establish methods by which~~
10 ~~consumers and service recipients are notified of the department's~~
11 ~~name, mailing address, and telephone number for directing~~
12 ~~complaints to the department. The commission may provide for that~~
13 ~~notification:~~

14 ~~[(1) on each registration form, application, or~~
15 ~~written contract for services of an individual or entity regulated~~
16 ~~by the department,~~

17 ~~[(2) on a sign prominently displayed in the place of~~
18 ~~business of each individual or entity regulated by the department,~~
19 ~~or~~

20 ~~[(3) in a bill for service provided by an individual or~~
21 ~~entity regulated by the department.]~~

22 **(c)** ~~[The department shall:~~

23 ~~[(1) keep an information file about each written~~
24 ~~complaint filed with the department that the department has the~~
25 ~~authority to resolve, and~~

26 ~~[(2) provide the person who filed the complaint, and~~
27 ~~each person or entity that is the subject of the complaint,~~

1 ~~information about the department's policies and procedures~~
2 ~~relating to complaint investigation and resolution.~~

3 ~~[(d)] The department~~~~[, at least quarterly and until final~~
4 ~~disposition of a written complaint that is filed with the~~
5 ~~department and that the department has the authority to resolve,]~~
6 shall periodically notify the parties to the complaint of its
7 status until final disposition unless the notice would jeopardize
8 an undercover investigation.

9 (d) The commission shall adopt rules applicable to each
10 division and district to establish a process to act on complaints
11 filed with the department ~~[(e) With regard to each complaint filed~~
12 ~~with the department, the department shall keep the following~~
13 ~~information:~~

- 14 ~~[(1) the date the complaint is filed,~~
15 ~~[(2) the name of the person filing the complaint,~~
16 ~~[(3) the subject matter of the complaint,~~
17 ~~[(4) a record of each person contacted in relation to~~
18 ~~the complaint,~~
19 ~~[(5) a summary of the results of the review or~~
20 ~~investigation of the complaint, and~~
21 ~~[(6) if the department takes no action on the~~
22 ~~complaint, an explanation of the reasons that no action was taken].~~

23 (e) The department shall develop a standard form for
24 submitting a complaint and make the form available on its Internet
25 website. The department shall establish a method to submit
26 complaints electronically.

27 (f) The department shall develop a method for analyzing the

1 sources and types of complaints and violations and establish
2 categories for the complaints and violations. The department shall
3 use the analysis to focus its information and education efforts on
4 specific problem areas identified through the analysis.

5 (g) The department shall:

6 (1) compile:

7 (A) detailed statistics and analyze trends on
8 complaint information, including:

9 (i) the nature of the complaints;

10 (ii) their disposition; and

11 (iii) the length of time to resolve
12 complaints; and

13 (B) complaint information on a district and a
14 divisional basis; and

15 (2) report the information on a monthly basis to the
16 division directors, office directors, and district engineers and on
17 a quarterly basis to the commission.

18 (b) The commissioner of transportation or the Texas
19 Transportation Commission shall adopt rules under Section 201.801,
20 Transportation Code, as amended by this section, not later than
21 March 1, 2012.

22 SECTION 15. Section 201.802(a), Transportation Code, is
23 amended to read as follows:

24 (a) The commission shall develop and implement policies
25 that provide the public with a reasonable opportunity to appear
26 before the commission and speak on any issue under the jurisdiction
27 of the department [~~commission~~].

1 SECTION 16. (a) Subchapter J, Chapter 201, Transportation
2 Code, is amended by adding Sections 201.807, 201.808, 201.809,
3 201.810, and 201.811 to read as follows:

4 Sec. 201.807. PROJECT INFORMATION REPORTING SYSTEM. (a)
5 The department shall establish a project information reporting
6 system that makes available in a central location on the
7 department's Internet website easily accessible and searchable
8 information regarding all of the department's transportation
9 plans, including the unified transportation program required by
10 Section 201.992. The department shall post information on its
11 Internet website as required by this subsection as the information
12 becomes available to the department and in a manner that is not cost
13 prohibitive. The project information reporting system shall
14 contain information about:

- 15 (1) each department project, including:
16 (A) the status of the project;
17 (B) each source of funding for the project;
18 (C) benchmarks for evaluating the progress of the
19 project;
20 (D) timelines for completing the project;
21 (E) a list of the department employees
22 responsible for the project, including information to contact each
23 person on that list; and
24 (F) the results of the annual review required
25 under Subsection (d);

26 (2) each construction work zone for a project that has
27 a construction phase timeline that exceeds one month or the cost of

1 which exceeds \$5 million, including information about:

2 (A) the number of lanes that will remain open
3 during the project's construction phase;

4 (B) the location and duration of each lane
5 closure; and

6 (C) the expected traffic delay resulting from
7 each lane closure;

8 (3) road maintenance projects, including:

9 (A) the criteria for designating a project as a
10 road maintenance project; and

11 (B) the condition of each road before the road
12 maintenance project; and

13 (4) the department's funds, including each source for
14 the department's funds and each expenditure made by the department
15 reported by each:

16 (A) department district;

17 (B) program funding category as required by
18 Section 201.992(b)(2); and

19 (C) type of revenue, including revenue from a
20 comprehensive development agreement or a toll project.

21 (b) In developing the project information reporting system,
22 the department shall collaborate with:

23 (1) the legislature;

24 (2) local transportation entities as defined by
25 Section 201.991; and

26 (3) members of the public.

27 (c) The department shall make the statistical information

1 provided under this section available on the department's Internet
2 website in more than one downloadable electronic format.

3 (d) As a component of the project information reporting
4 system required by this section, the department shall conduct an
5 annual review of the benchmarks and timelines of each project
6 included in the department's transportation plans, including the
7 unified transportation program, to determine the completion rates
8 of the projects and whether the projects were completed on time.

9 (e) The department shall update the information contained
10 in the project information reporting system on a regular basis, as
11 specified by commission rule.

12 Sec. 201.808. TRANSPORTATION EXPENDITURE PRIORITIES. (a)
13 The department shall develop a process to identify and distinguish
14 between the transportation projects that are required to maintain
15 the state infrastructure and the transportation projects that would
16 improve the state infrastructure in a manner consistent with the
17 statewide transportation plan required by Section 201.601.

18 (b) The department shall establish a transportation
19 expenditure reporting system that makes available in a central
20 location on the department's Internet website easily accessible and
21 searchable information regarding the priorities of transportation
22 expenditures for the identified transportation projects.

23 (c) The department shall include in the transportation
24 expenditure reporting system:

25 (1) a list of the most significant transportation
26 problems in each department district as described by the statewide
27 transportation plan developed under Section 201.601, including the

1 component required by Section 201.601(c);

2 (2) reports prepared by the department or an
3 institution of higher education that evaluate the effectiveness of
4 the department's expenditures on transportation projects to
5 achieve the transportation goal;

6 (3) information about the condition of the pavement
7 for each highway under the jurisdiction of the department,
8 including:

9 (A) the international roughness index issued by
10 the United States Department of Transportation Federal Highway
11 Administration; and

12 (B) the percentage of pavement that the
13 department determines to be in good or better condition;

14 (4) the condition of bridges, including information
15 about:

16 (A) bridges that are structurally deficient or
17 functionally obsolete; and

18 (B) bridge condition scores;

19 (5) information about traffic congestion and traffic
20 delays, including:

21 (A) the locations of the worst traffic delays;

22 (B) the variable travel time for major streets
23 and highways in this state; and

24 (C) the effect of traffic congestion on motor
25 vehicle travel and motor carriers; and

26 (6) information about the number of traffic accidents,
27 injuries, and fatalities, including a list of the locations in each

1 department district for the highest number of traffic accidents,
2 injuries, or fatalities, as that information becomes available to
3 the department.

4 (d) The department shall provide the information made
5 available under Subsection (c) in a format that allows a person to
6 conduct electronic searches for information regarding a specific
7 county, highway under the jurisdiction of the department, or type
8 of road.

9 (e) The department shall establish criteria to prioritize
10 the transportation needs for the state that is consistent with the
11 statewide transportation plan.

12 (f) Each department district shall enter information into
13 the transportation expenditure reporting system, including
14 information about:

- 15 (1) each district transportation project; and
16 (2) the priority category to which the project has
17 been assigned according to Section 201.996.

18 (g) The transportation expenditure reporting system shall
19 allow a person to compare information produced by that system to
20 information produced by the project information reporting system.

21 Sec. 201.809. STATEWIDE TRANSPORTATION REPORT. (a) The
22 department annually shall evaluate and publish a report about the
23 status of each transportation goal for this state. The report must
24 include:

- 25 (1) information about the progress of each long-term
26 transportation goal that is identified by the statewide
27 transportation plan;

1 (2) the status of each project identified as a major
2 priority;

3 (3) a summary of the number of statewide project
4 implementation benchmarks that have been completed; and

5 (4) information about the accuracy of previous
6 department financial forecasts.

7 (b) The department shall disaggregate the information in
8 the report by department district.

9 (c) The department shall provide a copy of the district
10 report to each member of the legislature for each department
11 district located in the member's legislative district, and at the
12 request of a member, a department employee shall meet with the
13 member to explain the report.

14 (d) The department shall provide a copy of each district
15 report to the political subdivisions located in the department
16 district that is the subject of the report, including:

17 (1) a municipality;

18 (2) a county; and

19 (3) a local transportation entity as defined by
20 Section 201.991.

21 Sec. 201.810. DEPARTMENT INFORMATION CONSOLIDATION. (a) To
22 the extent practicable and to avoid duplication of reporting
23 requirements, the department may combine the reports required under
24 this subchapter with reports required under other provisions of
25 this code.

26 (b) The department shall develop a central location on the
27 department's Internet website that provides easily accessible and

1 searchable information to the public contained in the reports
2 required under this subchapter and other provisions of this code.

3 Sec. 201.811. PUBLIC INVOLVEMENT POLICY. (a) The
4 department shall develop and implement a policy for public
5 involvement that guides and encourages public involvement with the
6 department. The policy must:

7 (1) provide for the use of public involvement
8 techniques that target different groups and individuals;

9 (2) encourage continuous contact between the
10 department and persons outside the department throughout the
11 transportation decision-making process;

12 (3) require the department to make efforts toward:

13 (A) clearly tying public involvement to
14 decisions made by the department; and

15 (B) providing clear information to the public
16 about specific outcomes of public input; and

17 (4) apply to all public input with the department,
18 including input:

19 (A) on statewide transportation policy-making;

20 (B) in connection with the environmental process
21 relating to specific projects; and

22 (C) into the commission's rulemaking procedures.

23 (b) The department shall document the number of positive,
24 negative, or neutral public comments received regarding all
25 environmental impact statements as expressed by the public through
26 the department's public involvement process. The department shall:

27 (1) present this information to the commission in an

1 open meeting; and

2 (2) report this information on the department's
3 Internet website in a timely manner.

4 (b) Not later than September 1, 2011, the Texas Department
5 of Transportation shall establish the central location on the
6 department's Internet website required by Section 201.810,
7 Transportation Code, as added by this section.

8 SECTION 17. Chapter 201, Transportation Code, is amended by
9 adding Subchapter P to read as follows:

10 SUBCHAPTER P. UNIFIED TRANSPORTATION PROGRAM

11 Sec. 201.991. DEFINITION. In this subchapter, "local
12 transportation entity" means any entity that participates in the
13 transportation planning process. The term includes a metropolitan
14 planning organization as defined by Section 472.031, a regional
15 tollway authority organized under Chapter 366, a regional
16 transportation authority operating under Chapter 452, and a rural
17 transit district as defined by Section 458.001.

18 Sec. 201.992. UNIFIED TRANSPORTATION PROGRAM. (a) The
19 department shall develop a unified transportation program covering
20 a period of 10 years to guide the development of and authorize
21 construction of transportation projects. The program must:

22 (1) annually identify target funding levels; and

23 (2) list all projects that the department intends to
24 develop or begin construction of during the program period.

25 (b) The commission shall adopt rules that:

26 (1) specify the criteria for selecting projects to be
27 included in the program;

1 (2) define program funding categories, including
2 categories for safety, maintenance, and mobility; and

3 (3) define each phase of a major transportation
4 project, including the planning, programming, implementation, and
5 construction phases.

6 (c) The department shall publish the entire unified
7 transportation program and summary documents highlighting project
8 benchmarks, priorities, and forecasts in appropriate media and on
9 the department's Internet website in a format that is easily
10 understandable by the public.

11 (d) In developing the rules required by this section, the
12 commission shall collaborate with local transportation entities.

13 Sec. 201.993. ANNUAL UPDATE TO UNIFIED TRANSPORTATION
14 PROGRAM. (a) The department shall annually update the unified
15 transportation program.

16 (b) The annual update must include:

17 (1) the annual funding forecast required by Section
18 201.994;

19 (2) the list of major transportation projects required
20 by Section 201.995(b); and

21 (3) the projects included in each program priority
22 category established by Section 201.996.

23 (c) The department shall collaborate with local
24 transportation entities to develop the annual update to the unified
25 transportation program.

26 Sec. 201.994. ANNUAL FUNDING AND CASH FLOW FORECASTS. (a)
27 The department annually shall:

1 (1) develop and publish a forecast of all funds the
2 department expects to receive, including funds from this state and
3 the federal government; and

4 (2) use that forecast to guide planning for the
5 unified transportation program.

6 (b) The department shall collaborate with local
7 transportation entities to develop scenarios for the forecast
8 required by Subsection (a) based on mutually acceptable funding
9 assumptions.

10 (c) Not later than September 1 of each year, the department
11 shall prepare and publish a cash flow forecast for a period of 20
12 years.

13 Sec. 201.995. MAJOR TRANSPORTATION PROJECTS. (a) The
14 commission by rule shall:

15 (1) establish criteria for designating a project as a
16 major transportation project;

17 (2) develop benchmarks for evaluating the progress of
18 a major transportation project and timelines for implementation and
19 construction of a major transportation project; and

20 (3) determine which critical benchmarks must be met
21 before a major transportation project may enter the implementation
22 phase of the unified transportation program.

23 (b) The department annually shall update the list of
24 projects that are designated as major transportation projects.

25 (c) In adopting rules required by this section, the
26 commission shall collaborate with local transportation entities.

27 Sec. 201.996. PROGRAM PRIORITY CATEGORIES. (a) The

1 commission by rule shall establish categories in the unified
2 transportation program to designate the priority of each project
3 included in the program and shall assign each project a category.

4 (b) The department shall collaborate with local
5 transportation entities when assigning each project included in the
6 unified transportation program to a category established under
7 Subsection (a).

8 (c) The highest priority category within the unified
9 transportation program must consist of projects designated as major
10 transportation projects.

11 Sec. 201.997. FUNDING ALLOCATION. (a) The commission by
12 rule shall specify the formulas for allocating funds in each
13 category described by Section 201.992(b)(2).

14 (b) The commission shall update the formulas established
15 under this section at least every four years.

16 Sec. 201.998. FUND DISTRIBUTION. (a) The department shall
17 allocate funds to the department districts based on the formulas
18 adopted under Section 201.997.

19 (b) In distributing funds to department districts, the
20 department may not exceed the cash flow forecast prepared and
21 published under Section 201.994(c).

22 Sec. 201.999. WORK PROGRAM. (a) Each department district
23 shall develop a consistently formatted work program based on the
24 unified transportation program covering a period of four years that
25 contains all projects that the district proposes to implement
26 during that period.

27 (b) The work program must contain:

1 (1) information regarding the progress of projects
2 designated as major transportation projects, according to project
3 implementation benchmarks and timelines established under Section
4 201.995; and

5 (2) a summary of the progress on other district
6 projects.

7 (c) The department shall use the work program to:

8 (1) monitor the performance of the district; and

9 (2) evaluate the performance of district employees.

10 (d) The department shall publish the work program in
11 appropriate media and on the department's Internet website.

12 SECTION 18. Section 223.002, Transportation Code, is
13 amended to read as follows:

14 Sec. 223.002. NOTICE OF BIDS [~~BY PUBLICATION~~]. [~~(a)~~] The
15 department shall give [~~publish~~] notice to interested persons
16 regarding [~~of~~] the time and place at which bids on a contract will
17 be opened and the contract awarded. The commission by rule shall
18 determine the most effective method for providing the notice
19 required by this section.

20 ~~[(b) The notice must be published in a newspaper published~~
21 ~~in the county in which the improvement is to be made once a week for~~
22 ~~at least two weeks before the time set for awarding the contract and~~
23 ~~in two other newspapers that the department may designate.~~

24 ~~[(c) Instead of the notice required by Subsection (b), if~~
25 ~~the department estimates that the contract involves an amount less~~
26 ~~than \$300,000, notice may be published in two successive issues of a~~
27 ~~newspaper published in the county in which the improvement is to be~~

1 made.

2 ~~[(d) If a newspaper is not published in the county in which~~
3 ~~the improvement is to be made, notice shall be published in a~~
4 ~~newspaper published in the county.~~

5 ~~[(1) nearest the county seat of the county in which the~~
6 ~~improvement is to be made, and~~

7 ~~[(2) in which a newspaper is published.]~~

8 SECTION 19. Subchapter A, Chapter 223, Transportation Code,
9 is amended by adding Section 223.017 to read as follows:

10 Sec. 223.017. DESIGN-BUILD CONTRACTS FOR NONTOLLED HIGHWAY
11 PROJECTS. (a) In this section, "design-build contract" means an
12 agreement with a private entity for the design and construction,
13 rehabilitation, expansion, or improvement of a highway project but
14 does not include the financing or operation of the highway.

15 (b) The department may enter into a design-build contract
16 for a nontolled highway project.

17 (c) Notwithstanding Section 223.0041, if the department
18 enters into a design-build contract under this section, the
19 department shall use a competitive procurement process that
20 provides the best value for the department.

21 (d) The commission shall adopt rules specifying the
22 conditions under which a design-build contract may be considered.
23 In developing rules the commission must address:

24 (1) the size and complexity of an eligible project;

25 (2) the time constraints for delivery of an eligible
26 project;

27 (3) the level and training of the staff required to

1 manage an eligible project; and

2 (4) other factors the commission considers important.

3 SECTION 20. Section 391.004, Transportation Code, is
4 amended to read as follows:

5 Sec. 391.004. DISPOSITION OF FEES [~~TEXAS HIGHWAY~~
6 ~~BEAUTIFICATION FUND ACCOUNT~~]. [~~The Texas highway beautification~~
7 ~~fund account is an account in the general revenue fund.~~] Money the
8 commission receives under this chapter shall be deposited to the
9 credit of the state [~~Texas~~] highway [~~beautification~~] fund
10 [~~account~~]. The commission shall use money in the state [~~Texas~~]
11 highway [~~beautification~~] fund [~~account~~] to administer this chapter
12 and Chapter 394.

13 SECTION 21. (a) Subchapter A, Chapter 391, Transportation
14 Code, is amended by adding Section 391.006 to read as follows:

15 Sec. 391.006. COMPLAINTS; RECORDS. (a) The commission by
16 rule shall establish procedures for accepting and resolving written
17 complaints related to outdoor advertising under this chapter. The
18 rules must include:

19 (1) a process to make information available describing
20 the department's procedures for complaint investigation and
21 resolution, including making information about the procedures
22 available on the department's Internet website;

23 (2) a simple form for filing complaints with the
24 department;

25 (3) a system to prioritize complaints so that the most
26 serious complaints receive attention before less serious
27 complaints; and

1 (4) a procedure for compiling and reporting detailed
2 annual statistics about complaints.

3 (b) The department shall provide to each person who files a
4 written complaint with the department, and to each person who is the
5 subject of a complaint, information about the department's policies
6 and procedures relating to complaint investigation and resolution.

7 (c) The department shall keep an information file about each
8 written complaint filed with the department that the department has
9 authority to resolve. The department shall keep the following
10 information for each complaint for the purpose of enforcing this
11 chapter:

12 (1) the date the complaint is filed;

13 (2) the name of the person filing the complaint;

14 (3) the subject matter of the complaint;

15 (4) each person contacted in relation to the
16 complaint;

17 (5) a summary of the results of the review or
18 investigation of the complaint; and

19 (6) if the department does not take action on the
20 complaint, an explanation of the reasons that action was not taken.

21 (d) If a written complaint is filed with the department that
22 the department has authority to resolve, the department, at least
23 quarterly and until final disposition of the complaint, shall
24 notify the parties to the complaint of the status of the complaint
25 unless the notice would jeopardize an ongoing department
26 investigation.

27 (b) The commissioner of transportation shall adopt rules

1 under Section 391.006, Transportation Code, as added by this
2 section, not later than September 1, 2012.

3 SECTION 22. Subchapter B, Chapter 391, Transportation Code,
4 is amended by adding Section 391.0355 to read as follows:

5 Sec. 391.0355. ADMINISTRATIVE PENALTY. (a) In lieu of a
6 suit to collect a civil penalty, the commission, after notice and an
7 opportunity for a hearing before the commission, may impose an
8 administrative penalty against a person who violates this chapter
9 or a rule adopted by the commission under this chapter. Each day a
10 violation continues is a separate violation.

11 (b) The amount of the administrative penalty may not exceed
12 the maximum amount of a civil penalty under Section 391.035.

13 (c) A proceeding under this section is a contested case
14 under Chapter 2001, Government Code.

15 (d) Judicial review of an appeal of an administrative
16 penalty imposed under this section is under the substantial
17 evidence rule.

18 (e) An administrative penalty collected under this section
19 shall be deposited to the credit of the state highway fund.

20 SECTION 23. Section 391.063, Transportation Code, is
21 amended to read as follows:

22 Sec. 391.063. LICENSE FEE. The commission may set the
23 amount of a license fee according to a scale graduated by the number
24 of units of outdoor advertising and the number of off-premise signs
25 under Chapter 394 owned by a license applicant.

26 SECTION 24. Section 391.065(b), Transportation Code, is
27 amended to read as follows:

1 (b) For the efficient management and administration of this
2 chapter and to reduce the number of employees required to enforce
3 this chapter, the commission shall adopt rules for issuing
4 standardized forms that are for submission by license holders and
5 applicants and that provide for an accurate showing of the number,
6 location, or other information required by the commission for each
7 license holder's or applicant's outdoor advertising or off-premise
8 signs under Chapter 394.

9 SECTION 25. Section 391.066, Transportation Code, is
10 amended by adding Subsection (d) to read as follows:

11 (d) The commission may deny the renewal of a license
12 holder's license if the license holder has not complied with the
13 permit requirements of this chapter or Chapter 394.

14 SECTION 26. Subchapter C, Chapter 391, Transportation Code,
15 is amended by adding Section 391.0661 to read as follows:

16 Sec. 391.0661. APPLICABILITY OF LICENSE. In addition to
17 authorizing a person to erect or maintain outdoor advertising, a
18 license issued under this chapter authorizes a person to erect or
19 maintain an off-premise sign under Chapter 394.

20 SECTION 27. Section 394.005, Transportation Code, is
21 amended to read as follows:

22 Sec. 394.005. DISPOSITION OF FEES. Money the commission
23 receives [~~A registration fee collected~~] under this chapter [~~Section~~
24 ~~394.048 by the commission~~] shall be deposited to the credit of the
25 state highway fund.

26 SECTION 28. (a) Subchapter A, Chapter 394, Transportation
27 Code, is amended by adding Section 394.006 to read as follows:

1 Sec. 394.006. COMPLAINTS; RECORDS. (a) The commission by
2 rule shall establish procedures for accepting and resolving written
3 complaints related to signs under this chapter. The rules must
4 include:

5 (1) a process to make information available describing
6 the department's procedures for complaint investigation and
7 resolution, including making information about the procedures
8 available on the department's Internet website;

9 (2) a simple form for filing complaints with the
10 department;

11 (3) a system to prioritize complaints so that the most
12 serious complaints receive attention before less serious
13 complaints; and

14 (4) a procedure for compiling and reporting detailed
15 annual statistics about complaints.

16 (b) The department shall provide to each person who files a
17 written complaint with the department, and to each person who is the
18 subject of a complaint, information about the department's policies
19 and procedures relating to complaint investigation and resolution.

20 (c) The department shall keep an information file about each
21 written complaint filed with the department that the department has
22 authority to resolve. The department shall keep the following
23 information for each complaint for the purpose of enforcing this
24 chapter:

25 (1) the date the complaint is filed;

26 (2) the name of the person filing the complaint;

27 (3) the subject matter of the complaint;

1 (4) each person contacted in relation to the
2 complaint;

3 (5) a summary of the results of the review or
4 investigation of the complaint; and

5 (6) if the department does not take action on the
6 complaint, an explanation of the reasons that action was not taken.

7 (d) If a written complaint is filed with the department that
8 the department has authority to resolve, the department, at least
9 quarterly and until final disposition of the complaint, shall
10 notify the parties to the complaint of the status of the complaint
11 unless the notice would jeopardize an ongoing department
12 investigation.

13 (b) The commissioner of transportation shall adopt rules
14 under Section 394.006, Transportation Code, as added by this
15 section, not later than September 1, 2012.

16 SECTION 29. The heading to Subchapter B, Chapter 394,
17 Transportation Code, is amended to read as follows:

18 SUBCHAPTER B. LICENSE AND PERMIT FOR OFF-PREMISE SIGN

19 SECTION 30. (a) Subchapter B, Chapter 394, Transportation
20 Code, is amended by adding Sections 394.0201, 394.0202, 394.0203,
21 394.0204, 394.0205, 394.0206, 394.0207, 394.027, 394.028, and
22 394.029 to read as follows:

23 Sec. 394.0201. ERECTING OFF-PREMISE SIGN WITHOUT LICENSE;
24 OFFENSE. (a) A person commits an offense if the person wilfully
25 erects or maintains an off-premise sign on a rural road without a
26 license under this subchapter.

27 (b) An offense under this section is a misdemeanor

1 punishable by a fine of not less than \$500 or more than \$1,000. Each
2 day of the proscribed conduct is a separate offense.

3 (c) A person is not required to obtain a license to erect or
4 maintain an on-premise sign.

5 Sec. 394.0202. ISSUANCE AND PERIOD OF LICENSE. (a) The
6 commission shall issue a license to a person who:

7 (1) files with the commission a completed application
8 form within the time specified by the commission;

9 (2) pays the appropriate license fee; and

10 (3) files with the commission a surety bond.

11 (b) A license may be issued for one year or longer.

12 (c) At least 30 days before the date on which a person's
13 license expires, the commission shall notify the person of the
14 impending expiration. The notice must be in writing and sent to the
15 person's last known address according to the records of the
16 commission.

17 Sec. 394.0203. LICENSE FEE. The commission may set the
18 amount of a license fee according to a scale graduated by the number
19 of off-premise signs and units of outdoor advertising under Chapter
20 391 owned by a license applicant.

21 Sec. 394.0204. SURETY BOND. (a) The surety bond required
22 of an applicant for a license under Section 394.0202 must be:

23 (1) in the amount of \$2,500 for each county in the
24 state in which the person erects or maintains an off-premise sign;
25 and

26 (2) payable to the commission for reimbursement for
27 removal costs of an off-premise sign that the license holder

1 unlawfully erects or maintains.

2 (b) A person may not be required to provide more than
3 \$10,000 in surety bonds.

4 Sec. 394.0205. RULES; FORMS. (a) The commission may adopt
5 rules to implement Sections 394.0201(a), 394.0202, 394.0203,
6 394.0204, and 394.0206.

7 (b) For the efficient management and administration of this
8 chapter and to reduce the number of employees required to enforce
9 this chapter, the commission shall adopt rules for issuing
10 standardized forms that are for submission by license holders and
11 applicants and that provide for an accurate showing of the number,
12 location, or other information required by the commission for each
13 license holder's or applicant's off-premise signs or outdoor
14 advertising under Chapter 391.

15 (c) The commission may not adopt a rule under this chapter
16 that restricts competitive bidding or advertising by the holder of
17 a license issued under this chapter other than a rule to prohibit
18 false, misleading, or deceptive practices. The limitation provided
19 by this section applies only to rules relating to the occupation of
20 outdoor advertiser and does not affect the commission's power to
21 regulate the orderly and effective display of an off-premise sign
22 under this chapter. A rule to prohibit false, misleading, or
23 deceptive practices may not:

24 (1) restrict the use of:

25 (A) any legal medium for an advertisement;

26 (B) the license holder's advertisement under a
27 trade name; or

1 (C) the license holder's personal appearance or
2 voice in an advertisement, if the license holder is an individual;
3 or

4 (2) relate to the size or duration of an advertisement
5 by the license holder.

6 Sec. 394.0206. REVOCATION OR SUSPENSION OF LICENSE; APPEAL.

7 (a) The commission may revoke or suspend a license issued under
8 this subchapter or place on probation a license holder whose
9 license is suspended if the license holder violates this chapter or
10 a rule adopted under this chapter. If the suspension of the license
11 is probated, the department may require the license holder to
12 report regularly to the commission on any matter that is the basis
13 of the probation.

14 (b) The judicial appeal of the revocation or suspension of a
15 license must be initiated not later than the 15th day after the date
16 of the commission's action.

17 (c) The commission may adopt rules for the reissuance of a
18 revoked or suspended license and may set fees for the reissuance.

19 (d) The commission may deny the renewal of a license
20 holder's existing license if the license holder has not complied
21 with the permit requirements of this chapter or Chapter 391.

22 Sec. 394.0207. APPLICABILITY OF LICENSE. In addition to
23 authorizing a person to erect or maintain an off-premise sign, a
24 license issued under this chapter authorizes a person to erect or
25 maintain outdoor advertising under Chapter 391.

26 Sec. 394.027. DENIAL OF PERMIT; APPEAL. The commission may
27 create a process by which an applicant may appeal a denial of a

1 permit under this subchapter.

2 Sec. 394.028. FEE AMOUNTS. The license and permit fees
3 required by this subchapter may not exceed an amount reasonably
4 necessary to cover the administrative costs incurred to enforce
5 this chapter.

6 Sec. 394.029. EXCEPTIONS FOR CERTAIN NONPROFIT
7 ORGANIZATIONS. (a) The combined license and permit fees under
8 this subchapter may not exceed \$10 for an off-premise sign erected
9 and maintained by a nonprofit organization in a municipality or a
10 municipality's extraterritorial jurisdiction if the sign relates
11 to or promotes only the municipality or a political subdivision
12 whose jurisdiction is wholly or partly concurrent with the
13 municipality.

14 (b) The nonprofit organization is not required to file a
15 bond as provided by Section 394.0202(a)(3).

16 (b) The change in law made by Section 394.0201,
17 Transportation Code, as added by this section, applies only to an
18 off-premise sign erected or for which the permit expires on or after
19 the effective date of this Act. An off-premise sign for which a
20 permit is issued before the effective date of this Act is covered by
21 the law in effect when the permit was issued, and the former law is
22 continued in effect for that purpose.

23 SECTION 31. Section 394.050, Transportation Code, is
24 amended to read as follows:

25 Sec. 394.050. [~~BOARD OF~~] VARIANCE. The commission or a
26 person designated by the commission [~~commission shall provide for a~~
27 ~~board of variance that~~], in an appropriate case and subject to an

1 appropriate condition or safeguard, may make a special exception to
2 this chapter regarding a permit for an off-premise outdoor sign on a
3 rural road.

4 SECTION 32. Sections 394.082(a) and (d), Transportation
5 Code, are amended to read as follows:

6 (a) In lieu of a suit to collect a civil penalty, the
7 commission, after notice and an opportunity for a hearing before
8 the commission, may impose an administrative penalty against a
9 person who [~~intentionally~~] violates this chapter or a rule adopted
10 by the commission under this chapter. Each day a violation
11 continues is a separate violation.

12 (d) Judicial review of an appeal of an administrative
13 penalty imposed under this section is under the substantial
14 evidence rule [~~by trial de novo~~].

15 SECTION 33. Subchapter D, Chapter 472, Transportation Code,
16 is amended by adding Section 472.035 to read as follows:

17 Sec. 472.035. COORDINATION WITH DEPARTMENT TO DEVELOP
18 LONG-TERM PLANNING ASSUMPTIONS. Each metropolitan planning
19 organization shall work with the department to develop mutually
20 acceptable assumptions for the purposes of long-range federal and
21 state funding forecasts and use those assumptions to guide
22 long-term planning in the organization's long-range transportation
23 plan.

24 SECTION 34. Chapter 544, Transportation Code, is amended by
25 adding Section 544.013 to read as follows:

26 Sec. 544.013. CHANGEABLE MESSAGE SIGN SYSTEM. (a) In this
27 section, "changeable message sign" means a sign that conforms to

1 the manual and specifications adopted under Section 544.001. The
2 term includes a dynamic message sign.

3 (b) The Texas Department of Transportation in cooperation
4 with local governments shall actively manage a system of changeable
5 message signs located on highways under the jurisdiction of the
6 department to mitigate traffic congestion by providing current
7 information to the traveling public, including information about
8 traffic incidents, weather conditions, road construction, and
9 alternative routes when applicable.

10 SECTION 35. Subchapter A, Chapter 621, Transportation Code,
11 is amended by adding Section 621.008 to read as follows:

12 Sec. 621.008. STUDY REGARDING OVERSIZE AND OVERWEIGHT
13 VEHICLES. (a) The department shall conduct a study to determine
14 improvements to the regulation of oversize and overweight vehicles.

15 (b) In conducting the study, the department shall consider:

16 (1) prohibiting overweight vehicles or vehicle
17 combinations from traveling on state highways if the vehicle or
18 combination will cause damage to a road or bridge, based on the
19 weight or load specifications to which the road or bridge was built;

20 (2) requiring each applicant for a permit under
21 Chapter 623 to pay a graduated highway maintenance fee based on
22 weight and the amount of damage done by the permitted vehicle or
23 vehicle combination to roads and bridges;

24 (3) requiring each fee collected for an overweight or
25 oversize vehicle permit to be deposited in the state highway fund;

26 (4) eliminating all exemptions for overweight
27 vehicles; and

1 (5) the feasibility and impact of different approaches
2 to regulating oversize and overweight vehicles that would help
3 reduce damage to roads and bridges and provide increased funding
4 for maintenance costs in the future.

5 (c) Not later than December 31, 2011, the department shall
6 report the results of the study conducted under this section to the
7 governor, the lieutenant governor, the speaker of the house of
8 representatives, and the appropriate oversight committee of each
9 house of the legislature.

10 (d) This section expires September 1, 2012.

11 SECTION 36. Except as otherwise provided by this Act, this
12 Act takes effect September 1, 2011.