

1-1 By: Shapiro S.B. No. 246
1-2 (In the Senate - Filed December 6, 2010; January 31, 2011,
1-3 read first time and referred to Committee on Transportation and
1-4 Homeland Security; March 28, 2011, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 8,
1-6 Nays 1; March 28, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 246 By: Shapiro

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

1-10 relating to toll collection services provided by a regional tollway
1-11 authority.

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

1-13 SECTION 1. Section 366.038, Transportation Code, is amended
1-14 to read as follows:

1-15 Sec. 366.038. TOLLING SERVICES ~~[TOLL COLLECTION]~~. (a) In
1-16 this section, "tolling services" means the tolling services
1-17 normally provided through an authority's customer service center,
1-18 including customer service, customer account maintenance,
1-19 transponder supply, and toll collection and enforcement.

1-20 (b) An authority shall provide, for reasonable
1-21 compensation, tolling ~~[customer service and other toll collection~~
1-22 ~~and enforcement]~~ services for a toll project in the boundaries of
1-23 the authority, regardless of whether the toll project is developed,
1-24 financed, constructed, and operated under an agreement, including a
1-25 comprehensive development agreement, with the authority or another
1-26 entity. This section does not restrict an authority from agreeing
1-27 to provide additional tolling services in an agreement described in
1-28 Subsection (d). Additional tolling services provided under an
1-29 agreement under that subsection are subject to the provisions that
1-30 apply to tolling services under this section.

1-31 (c) An authority may not provide financial security,
1-32 including a cash collateral account, for the performance of tolling
1-33 services the authority provides under this section if:

1-34 (1) the authority determines that providing security
1-35 could restrict the amount, or increase the cost, of bonds or other
1-36 debt obligations the authority may subsequently issue under this
1-37 chapter; or

1-38 (2) the authority is not reimbursed its cost of
1-39 providing the security.

1-40 (d) Before providing tolling services for a toll project
1-41 under this section, an authority must enter into a written
1-42 agreement that sets out the terms and conditions for the tolling
1-43 services to be provided and the terms of compensation for those
1-44 services.

1-45 (e) Toll revenues are the property of the entity that is
1-46 entitled to the revenues under a tolling services agreement for the
1-47 toll project, regardless of who holds or collects the revenues.
1-48 Toll revenues that are held or collected by an authority under a
1-49 tolling services agreement and are not the property of the
1-50 authority are not subject to a claim adverse to the authority or a
1-51 lien on or encumbrance against property of the authority. Toll
1-52 revenues that are the property of the authority are not subject to a
1-53 claim adverse to any other entity or a lien on or encumbrance
1-54 against property of any other entity.

1-55 (f) An authority may agree in a tolling services agreement
1-56 that its right and obligation to provide tolling services for the
1-57 applicable toll project under this section are subject to
1-58 termination for default and that after a termination for default
1-59 this section does not apply to that toll project.

1-60 (g) Any public or private entity, including an authority or
1-61 the department, may agree to fund a cash collateral account for the
1-62 purpose of providing money that may be withdrawn as provided in the
1-63 tolling services agreement because of an authority's failure to

2-1 make any payment as required by the tolling services agreement. An
2-2 authority's written commitment to fully or partially fund a cash
2-3 collateral account is conclusive evidence of the authority's
2-4 determination that the commitment does not violate Subsection (c).
2-5 The department may use money from any available source to fund a
2-6 cash collateral account under this subsection.

2-7 SECTION 2. Subsection (c), Section 366.038, Transportation
2-8 Code, as added by this Act, does not apply to any project, or
2-9 portion of any project, described in a tolling services agreement a
2-10 regional tollway authority enters into with the Texas Department of
2-11 Transportation or a private participant in a comprehensive
2-12 development agreement before the effective date of this Act.

2-13 SECTION 3. This Act takes effect immediately if it receives
2-14 a vote of two-thirds of all the members elected to each house, as
2-15 provided by Section 39, Article III, Texas Constitution. If this
2-16 Act does not receive the vote necessary for immediate effect, this
2-17 Act takes effect September 1, 2011.

2-18 * * * * *