

1-1 By: Hegar, Watson S.B. No. 565
1-2 (In the Senate - Filed February 8, 2011; February 17, 2011,
1-3 read first time and referred to Committee on Transportation and
1-4 Homeland Security; April 5, 2011, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 7,
1-6 Nays 0; April 5, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 565 By: Watson

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

1-10 relating to repeal of authority for the establishment and operation
1-11 of the Trans-Texas Corridor and to the operation of vehicles on
1-12 certain Texas roadways.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subsection (j), Section 11.11, Tax Code, is
1-15 amended to read as follows:

1-16 (j) For purposes of this section, any portion of a facility
1-17 owned by the Texas Department of Transportation that is [~~part of the~~
1-18 ~~Trans-Texas Corridor, is~~] a rail facility or system~~[7]~~ or is a
1-19 highway in the state highway system, and that is licensed or leased
1-20 to a private entity by that department under Chapter 91 or~~[7]~~ 223,
1-21 [~~or 227,~~] Transportation Code, is public property used for a public
1-22 purpose if the rail facility or system, highway, or facility is
1-23 operated by the private entity to provide transportation or utility
1-24 services. Any part of a facility, rail facility or system, or state
1-25 highway that is licensed or leased to a private entity for a
1-26 commercial purpose is not exempt from taxation.

1-27 SECTION 2. Subsection (c), Section 25.06, Tax Code, is
1-28 amended to read as follows:

1-29 (c) This section does not apply to:

1-30 (1) any portion of a facility owned by the Texas
1-31 Department of Transportation that is [~~part of the Trans-Texas~~
1-32 ~~Corridor, is~~] a rail facility or system~~[7]~~ or is a highway in the
1-33 state highway system and that is licensed or leased to a private
1-34 entity by that department under Chapter 91 or 223 [~~, 227, or 361~~],
1-35 Transportation Code; or

1-36 (2) a leasehold or other possessory interest granted
1-37 by the Texas Department of Transportation in a facility owned by
1-38 that department that is [~~part of the Trans-Texas Corridor, is~~] a
1-39 rail facility or system~~[7]~~ or is a highway in the state highway
1-40 system.

1-41 SECTION 3. Subsection (c), Section 25.07, Tax Code, is
1-42 amended to read as follows:

1-43 (c) Subsection (a) does not apply to:

1-44 (1) any portion of a facility owned by the Texas
1-45 Department of Transportation that is [~~part of the Trans-Texas~~
1-46 ~~Corridor, is~~] a rail facility or system~~[7]~~ or is a highway in the
1-47 state highway system and that is licensed or leased to a private
1-48 entity by that department under Chapter 91 or 223 [~~, 227, or 361~~],
1-49 Transportation Code; or

1-50 (2) a leasehold or other possessory interest granted
1-51 by the Texas Department of Transportation in a facility owned by
1-52 that department that is [~~part of the Trans-Texas Corridor, is~~] a
1-53 rail facility or system~~[7]~~ or is a highway in the state highway
1-54 system.

1-55 SECTION 4. Subsections (a) and (b), Section 201.616,
1-56 Transportation Code, are amended to read as follows:

1-57 (a) Not later than December 1 of each year, the department
1-58 shall submit a report to the legislature that details:

1-59 (1) the expenditures made by the department in the
1-60 preceding state fiscal year in connection with:

1-61 (A) the unified transportation program of the
1-62 department;

1-63 (B) turnpike projects and toll roads of the

2-1 department; and
2-2 (C) [~~the Trans-Texas Corridor,~~
2-3 [~~(D)~~] rail facilities described in Chapter 91;
2-4 [~~and~~
2-5 [~~(E) non-highway facilities on the Trans-Texas~~
2-6 ~~Corridor if those expenditures are subject to Section 227.062(c);]~~
2-7 (2) the amount of bonds or other public securities
2-8 issued for transportation projects; and
2-9 (3) the direction of money by the department to a
2-10 regional mobility authority in this state.
2-11 (b) The report must break down information under Subsection
2-12 (a)(1)(A) by program category and department district. The report
2-13 must break down information under Subsections (a)(1)(B) and [~~7~~]
2-14 (C) [~~, (D), and (E)~~] and Subsection (a)(3) by department district.
2-15 The report must break down information under Subsection (a)(2) by
2-16 department district and type of project.
2-17 SECTION 5. Subsection (a), Section 202.112, Transportation
2-18 Code, is amended to read as follows:
2-19 (a) The commission may purchase an option to acquire
2-20 property for possible use in or in connection with a transportation
2-21 facility [~~, including a facility as defined by Section 227.001,~~
2-22 before a final decision has been made as to whether the
2-23 transportation facility will be located on that property.
2-24 SECTION 6. Subsection (e), Section 222.003, Transportation
2-25 Code, is amended to read as follows:
2-26 (e) The proceeds of bonds and other public securities issued
2-27 under this section may not be used for any purpose other than any
2-28 costs related to the bonds and other public securities and the
2-29 purposes for which revenues are dedicated under Section 7-a,
2-30 Article VIII, Texas Constitution. [~~The proceeds of bonds and other~~
2-31 ~~public securities issued under this section may not be used for the~~
2-32 ~~construction of a state highway or other facility on the~~
2-33 ~~Trans-Texas Corridor. For purposes of this section, the~~
2-34 ~~"Trans-Texas Corridor" means the statewide system of multimodal~~
2-35 ~~facilities under the jurisdiction of the department that is~~
2-36 ~~designated by the commission, notwithstanding the name given to~~
2-37 ~~that corridor.]~~
2-38 SECTION 7. Subsection (a), Section 223.201, Transportation
2-39 Code, is amended to read as follows:
2-40 (a) Subject to Section 223.202, the department may enter
2-41 into a comprehensive development agreement with a private entity to
2-42 design, develop, finance, construct, maintain, repair, operate,
2-43 extend, or expand a:
2-44 (1) toll project;
2-45 (2) [~~facility or a combination of facilities on the~~
2-46 ~~Trans-Texas Corridor,~~
2-47 [~~(3)~~] state highway improvement project that includes
2-48 both tolled and nontolled lanes and may include nontolled
2-49 appurtenant facilities;
2-50 (3) [~~(4)~~] state highway improvement project in which
2-51 the private entity has an interest in the project; or
2-52 (4) [~~(5)~~] state highway improvement project financed
2-53 wholly or partly with the proceeds of private activity bonds, as
2-54 defined by Section 141(a), Internal Revenue Code of 1986.
2-55 SECTION 8. Subsection (d), Section 223.206, Transportation
2-56 Code, is amended to read as follows:
2-57 (d) The department may not enter into a comprehensive
2-58 development agreement with a private entity under this subchapter
2-59 [~~or Section 227.023~~] that provides for the lease, license, or other
2-60 use of rights-of-way or related property by the private entity for
2-61 the purpose of constructing, operating, or maintaining an ancillary
2-62 facility that is used for commercial purposes.
2-63 SECTION 9. Subsections (b), (c), (e), and (f), Section
2-64 223.208, Transportation Code, are amended to read as follows:
2-65 (b) A comprehensive development agreement entered into
2-66 under this subchapter [~~or Section 227.023(c)~~] may include any
2-67 provision that the department considers appropriate, including
2-68 provisions:
2-69 (1) providing for the purchase by the department,

3-1 under terms and conditions agreed to by the parties, of the interest
 3-2 of a private participant in the comprehensive development agreement
 3-3 and related property, including any interest in a highway or other
 3-4 facility designed, developed, financed, constructed, operated, or
 3-5 maintained under the comprehensive development agreement;

3-6 (2) establishing the purchase price for the interest
 3-7 of a private participant in the comprehensive development agreement
 3-8 and related property, which price may be determined in accordance
 3-9 with the methodology established by the parties in the
 3-10 comprehensive development agreement;

3-11 (3) providing for the payment of obligations incurred
 3-12 pursuant to the comprehensive development agreement, including any
 3-13 obligation to pay the purchase price for the interest of a private
 3-14 participant in the comprehensive development agreement, from any
 3-15 lawfully available source, including securing such obligations by a
 3-16 pledge of revenues of the commission or the department derived from
 3-17 the applicable project, which pledge shall have such priority as
 3-18 the department may establish;

3-19 (4) permitting the private participant to pledge its
 3-20 rights under the comprehensive development agreement;

3-21 (5) concerning the private participant's right to
 3-22 operate and collect revenue from the project; and

3-23 (6) restricting the right of the commission or the
 3-24 department to terminate the private participant's right to operate
 3-25 and collect revenue from the project unless and until any
 3-26 applicable termination payments have been made.

3-27 (c) The department may enter into a comprehensive
 3-28 development agreement under this subchapter [~~or under Section~~
 3-29 ~~227.023(c)~~] with a private participant only if the project is
 3-30 identified in the department's unified transportation program or is
 3-31 located on a transportation corridor identified in the statewide
 3-32 transportation plan.

3-33 (e) Notwithstanding anything in Section 201.112 or other
 3-34 law to the contrary, and subject to compliance with the dispute
 3-35 resolution procedures set out in the comprehensive development
 3-36 agreement, an obligation of the commission or the department under
 3-37 a comprehensive development agreement entered into under this
 3-38 subchapter [~~or Section 227.023(c)~~] to make or secure payments to a
 3-39 person because of the termination of the agreement, including the
 3-40 purchase of the interest of a private participant or other investor
 3-41 in a project, may be enforced by mandamus against the commission,
 3-42 the department, and the comptroller in a district court of Travis
 3-43 County, and the sovereign immunity of the state is waived for that
 3-44 purpose. The district courts of Travis County shall have exclusive
 3-45 jurisdiction and venue over and to determine and adjudicate all
 3-46 issues necessary to adjudicate any action brought under this
 3-47 subsection. The remedy provided by this subsection is in addition
 3-48 to any legal and equitable remedies that may be available to a party
 3-49 to a comprehensive development agreement.

3-50 (f) A comprehensive development agreement entered into
 3-51 under this subchapter [~~or Section 227.023(c)~~] and any obligations
 3-52 incurred, issued, or owed under the agreement does not constitute a
 3-53 state security under Chapter 1231, Government Code.

3-54 SECTION 10. Section 224.1541, Transportation Code, is
 3-55 amended by adding Subsection (d) to read as follows:

3-56 (d) The commission may authorize the operation of a vehicle
 3-57 that exceeds the weight limitations of Subchapter B, Chapter 621,
 3-58 or the size limitations of Subchapter C, Chapter 621, on a lane
 3-59 designated as an exclusive lane under this section if supported by
 3-60 an engineering and traffic study that includes an analysis of the
 3-61 structural capacity of bridges and pavements, current and projected
 3-62 traffic patterns and volume, and potential effects on public
 3-63 safety. This subsection does not authorize the operation of a
 3-64 vehicle that exceeds a maximum axle weight authorized by Chapter
 3-65 621, 622, or 623. This subsection does not apply to a roadway that
 3-66 is a part of the national system of interstate and defense highways.

3-67 SECTION 11. Section 545.353, Transportation Code, is
 3-68 amended by adding Subsection (h-2) to read as follows:

3-69 (h-2) Notwithstanding Section 545.352(b), as amended by

4-1 Chapters 663 (H.B. 385) and 739 (H.B. 1075), Acts of the 76th
4-2 Legislature, Regular Session, 1999, the commission may establish a
4-3 speed limit not to exceed 85 miles per hour on a part of the state
4-4 highway system if:

4-5 (1) that part of the highway system is designed to
4-6 accommodate travel at that established speed or a higher speed; and

4-7 (2) the commission determines, after an engineering
4-8 and traffic investigation conducted after traffic conditions on
4-9 that part of the highway system have stabilized but not earlier than
4-10 the first anniversary of the date that part of the highway system
4-11 opens to traffic, that the established speed limit is reasonable
4-12 and safe for that part of the highway system.

4-13 SECTION 12. Subdivision (2), Section 371.001,
4-14 Transportation Code, is amended to read as follows:

4-15 (2) "Toll project entity" means an entity authorized
4-16 by law to acquire, design, construct, operate, and maintain a toll
4-17 project, including:

4-18 (A) the department [~~, including under Chapter~~
4-19 227];

4-20 (B) a regional tollway authority under Chapter
4-21 366;

4-22 (C) a regional mobility authority under Chapter
4-23 370; or

4-24 (D) a county under Chapter 284.

4-25 SECTION 13. Subdivision (2), Section 372.001,
4-26 Transportation Code, is amended to read as follows:

4-27 (2) "Toll project entity" means an entity authorized
4-28 by law to acquire, design, construct, finance, operate, and
4-29 maintain a toll project, including:

4-30 (A) the department under Chapter [~~227 or~~] 228;

4-31 (B) a regional tollway authority under Chapter
4-32 366;

4-33 (C) a regional mobility authority under Chapter
4-34 370; or

4-35 (D) a county under Chapter 284.

4-36 SECTION 14. The following provisions of the Transportation
4-37 Code are repealed:

4-38 (1) Subsection (e), Section 201.618;

4-39 (2) Chapter 227;

4-40 (3) Section 284.0032;

4-41 (4) Section 366.305;

4-42 (5) Section 370.316; and

4-43 (6) Section 545.3531.

4-44 SECTION 15. This Act takes effect immediately if it
4-45 receives a vote of two-thirds of all the members elected to each
4-46 house, as provided by Section 39, Article III, Texas Constitution.
4-47 If this Act does not receive the vote necessary for immediate
4-48 effect, this Act takes effect September 1, 2011.

4-49 * * * * *