

1-1 By: Nichols S.B. No. 731
1-2 (In the Senate - Filed February 16, 2011; February 23, 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 9, Nays
1-6 0; March 28, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 731 By: Nichols

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

1-10 relating to the attorney general's legal sufficiency review of a
1-11 comprehensive development agreement.

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

1-13 SECTION 1. Section 371.051, Transportation Code, is amended
1-14 to read as follows:

1-15 Sec. 371.051. ATTORNEY GENERAL REVIEW AND EXAMINATION FEE.

1-16 (a) A toll project entity may not enter into a comprehensive
1-17 development agreement unless the attorney general reviews the
1-18 proposed agreement and determines that it is legally sufficient.

1-19 (b) A toll project entity shall pay a nonrefundable
1-20 examination fee to the attorney general on submitting a proposed
1-21 comprehensive development agreement for review. At the time the
1-22 examination fee is paid, the toll project entity shall also submit
1-23 for review a complete transcript of proceedings related to the
1-24 comprehensive development agreement.

1-25 (c) If the toll project entity submits multiple proposed
1-26 comprehensive development agreements relating to the same toll
1-27 project for review, the entity shall pay the examination fee under
1-28 Subsection (b) for each proposed comprehensive development
1-29 agreement.

1-30 (d) The attorney general shall provide a legal sufficiency
1-31 determination not later than the 60th day after the date the
1-32 examination fee and transcript of the proceedings required under
1-33 Subsection (b) are received. If the attorney general cannot
1-34 provide a legal sufficiency determination within the 60-day period,
1-35 the attorney general shall notify the toll project entity in
1-36 writing of the reason for the delay and may extend the review period
1-37 for not more than 30 days.

1-38 (e) After the attorney general issues a legal sufficiency
1-39 determination, a toll project entity may supplement the transcript
1-40 of proceedings or amend the comprehensive development agreement to
1-41 facilitate a redetermination by the attorney general of the prior
1-42 legal sufficiency determination issued under this section. The
1-43 toll project entity is not required to pay an examination fee for a
1-44 redetermination review.

1-45 (f) The toll project entity may collect or seek
1-46 reimbursement of the examination fee under Subsection (b) from the
1-47 private participant.

1-48 (g) The attorney general by rule shall set the examination
1-49 fee required under Subsection (b) in a reasonable amount and may
1-50 adopt other rules as necessary to implement this section. The fee
1-51 may not be set in an amount that is determined by a percentage of the
1-52 cost of the toll project. The amount of the fee must cover only the
1-53 usual actual costs incurred by the attorney general for conducting
1-54 the legal sufficiency review.

1-55 SECTION 2. The requirements of Section 371.051,
1-56 Transportation Code, as amended by this Act, apply only to a
1-57 comprehensive development agreement submitted to the office of the
1-58 attorney general on or after the effective date of this Act.

1-59 SECTION 3. This Act takes effect immediately if it receives
1-60 a vote of two-thirds of all the members elected to each house, as
1-61 provided by Section 39, Article III, Texas Constitution. If this
1-62 Act does not receive the vote necessary for immediate effect, this
1-63 Act takes effect September 1, 2011.

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