

By: Hinojosa, Hegar
Nichols

S.B. No. 1420

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. Section 201.051, Transportation Code, is amended by adding Subsection (b-1) and amending Subsections (d), (f), (g), (h), and (j) to read as follows:

(b-1) A member of the commission may not accept a contribution to a campaign for election to an elected office. If a commissioner accepts a campaign contribution, the person is considered to have resigned from the office and the office immediately becomes vacant. The vacancy shall be filled in the manner provided by law.

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

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

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

(3) uses or receives a substantial amount of tangible goods, services, or funds from the department, other than

1 compensation or reimbursement authorized by law for commission
2 membership, attendance, or expenses; or

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

5 (f) An officer, employee, or paid consultant of a Texas
6 trade association in the field of road construction or maintenance,
7 aviation, or outdoor advertising is not eligible to serve as [~~or a~~
8 ~~Texas trade association of automobile dealers may not be~~] a member
9 of the commission.

10 (g) The spouse of an officer, manager, or paid consultant of
11 a Texas trade association in the field of road construction or
12 maintenance, aviation, or outdoor advertising is not eligible to
13 serve as [~~or a Texas association of automobile dealers may not be~~] a
14 member of the commission.

15 (h) A person required to register as a lobbyist under
16 Chapter 305, Government Code, because of the person's activities
17 for compensation on behalf of a profession related to the operation
18 of the department is not eligible to [~~may not~~] serve as a member of
19 the commission.

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

26 SECTION 2. Subsection (a), Section 201.053, Transportation
27 Code, is amended to read as follows:

1 (a) The governor [~~periodically~~] shall designate one
2 commissioner as the chair of the commission, who shall serve as
3 presiding officer of the commission.

4 SECTION 3. Subsection (a), Section 201.057, Transportation
5 Code, is amended to read as follows:

6 (a) It is a ground for removal from the commission if a
7 commissioner:

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

11 (2) violates a prohibition provided by Section
12 201.051;

13 (3) cannot discharge the commissioner's duties for a
14 substantial part of the term for which the commissioner is
15 appointed because of illness or disability; or

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

20 SECTION 4. Section 201.058, Transportation Code, is amended
21 to read as follows:

22 Sec. 201.058. INFORMATION ON QUALIFICATIONS AND CONDUCT.
23 The department shall provide to the members of the commission, as
24 often as necessary, information concerning the members'
25 qualifications for office [~~under Subchapter B~~] and their
26 responsibilities under applicable laws relating to standards of
27 conduct for state officers.

1 SECTION 5. Subchapter C, Chapter 201, Transportation Code,
2 is amended by adding Section 201.118 to read as follows:

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

6 (1) negotiated rulemaking procedures under Chapter
7 2008, Government Code, for the adoption of department rules; and

8 (2) appropriate alternative dispute resolution
9 procedures under Chapter 2009, Government Code, to assist in the
10 resolution of internal and external disputes under the department's
11 jurisdiction.

12 (b) The department's procedures relating to alternative
13 dispute resolution must conform, to the extent possible, to any
14 model guidelines issued by the State Office of Administrative
15 Hearings for the use of alternative dispute resolution by state
16 agencies.

17 (c) The department shall:

18 (1) coordinate the implementation of the policy
19 adopted under Subsection (a);

20 (2) provide training as needed to implement the
21 procedures for negotiated rulemaking or alternative dispute
22 resolution; and

23 (3) collect data concerning the effectiveness of those
24 procedures.

25 SECTION 6. Section 201.204, Transportation Code, is amended
26 to read as follows:

27 Sec. 201.204. SUNSET PROVISION. The Texas Department of

1 Transportation is subject to Chapter 325, Government Code (Texas
2 Sunset Act). Unless continued in existence as provided by that
3 chapter, the department is abolished September 1, 2015 [~~2011~~].

4 SECTION 7. Subchapter D, Chapter 201, Transportation Code,
5 is amended by adding Sections 201.210 and 201.211 to read as
6 follows:

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

11 (b) Violation of Subsection (a) is grounds for dismissal of
12 an employee.

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

15 (1) provide public information or information
16 responsive to a request; or

17 (2) communicate with officers and employees of the
18 federal government in pursuit of federal appropriations or
19 programs.

20 Sec. 201.211. ETHICS AFFIRMATION AND HOTLINE. (a) A
21 department employee shall annually affirm the employee's adherence
22 to the ethics policy adopted under Section 572.051(c), Government
23 Code.

24 (b) The department shall establish and operate a telephone
25 hotline that enables a person to call the hotline number,
26 anonymously or not anonymously, to report alleged fraud, waste, or
27 abuse or an alleged violation of the ethics policy adopted under

1 Section 572.051(c), Government Code.

2 SECTION 8. Subsection (a), Section 201.401, Transportation
3 Code, is amended to read as follows:

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

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

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

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

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

20 SECTION 9. Subsection (b), Section 201.404, Transportation
21 Code, is amended to read as follows:

22 (b) The director or the director's designee shall develop a
23 system of annual performance evaluations that are based on
24 documented employee performance. All merit pay for department
25 employees must be based on the system established under this
26 subsection. The annual performance evaluations developed under
27 this subsection must include the evaluation of an employee's:

- 1 (1) professionalism;
- 2 (2) diligence; and
- 3 (3) responsiveness to directives and requests from the
- 4 commission and the legislature.

5 SECTION 10. Section 201.601, Transportation Code, is
6 amended to read as follows:

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

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

16 (a-1) The plan must:

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

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

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

- 25 (A) other state agencies;
- 26 (B) political subdivisions;
- 27 (C) local transportation entities; and

1 (D) the general public.

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

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

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

22 (e) The department annually shall provide to the lieutenant
23 governor, the speaker of the house of representatives, and the
24 chair of the standing committee of each house of the legislature
25 with primary jurisdiction over transportation issues an analysis of
26 the department's progress in attaining the goals under Subsection
27 (a-1)(1). The department shall make the information under this

1 subsection available on its Internet website.

2 (f) The department shall update the plan every four years or
3 more frequently as necessary.

4 SECTION 11. Subchapter H, Chapter 201, Transportation Code,
5 is amended by adding Sections 201.6015 and 201.620 to read as
6 follows:

7 Sec. 201.6015. INTEGRATION OF PLANS AND POLICY EFFORTS. In
8 developing each of its transportation plans, programs, and policy
9 efforts, the department must clearly reference the 24-year plan
10 under Section 201.601 and specify how the plan, program, or policy
11 effort supports or otherwise relates to the specific goals under
12 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 12. Section 201.703, Transportation Code, is
21 amended to read as follows:

22 Sec. 201.703. EXPENDITURES AND CONTRACTS FOR
23 TRANSPORTATION PROGRAMS OR PROJECTS [ROADS] NOT ON THE HIGHWAY
24 SYSTEM. (a) The department in conjunction with the Federal
25 Highway Administration may spend for a transportation program
26 related to the improvement of a transportation project [road] not
27 on [in] the state highway system money appropriated by the United

1 States Congress, ~~and~~ allocated by the United States secretary of
2 transportation to the department, and eligible under federal law
3 for expenditure on the program or project ~~[road]~~. That federal
4 money may be matched or supplemented by an amount of state money
5 necessary for proper construction and performance of the work.

6 (b) State money may not be used exclusively for a
7 transportation program or for the improvement of a transportation
8 project ~~[the construction of a road]~~ not on ~~[in]~~ the state highway
9 system.

10 (c) The expenditure of state money is limited to:

11 (1) the cost of construction and engineering,
12 overhead, and other costs on which the application of federal money
13 is prohibited or impractical; and

14 (2) the cost of providing oversight required under
15 federal law.

16 (d) With regard to work for a transportation project that is
17 not on the state highway system, the department may:

18 (1) enter into a contract for the work in the same
19 manner as for work on a transportation project that is on the state
20 highway system; or

21 (2) by rule authorize a local government to enter into
22 a contract for the work in the same manner as a local government is
23 authorized to contract for work on a comparable project on the state
24 highway system.

25 SECTION 13. (a) Chapter 201, Transportation Code, is
26 amended by adding Subchapter I-1 to read as follows:

1 SUBCHAPTER I-1. ENVIRONMENTAL REVIEW PROCESS

2 Sec. 201.751. DEFINITIONS. In this subchapter:

3 (1) "Day" means a calendar day.

4 (2) "Federal Highway Administration" means the United
5 States Department of Transportation Federal Highway
6 Administration.

7 (3) "Highway project" means a highway or related
8 improvement that is:

9 (A) part of the state highway system; or

10 (B) not part of the state highway system but
11 funded wholly or partly by federal money.

12 (4) "Local government sponsor" means a political
13 subdivision of the state that:

14 (A) elects to participate in the planning,
15 development, design, funding, or financing of a highway project;
16 and

17 (B) is a municipality or a county, a group of
18 adjoining counties, a county acting under Chapter 284, a regional
19 tollway authority operating under Chapter 366, a regional mobility
20 authority operating under Chapter 370, a local government
21 corporation, or a transportation corporation created under Chapter
22 431.

23 Sec. 201.752. STANDARDS. (a) The commission by rule shall
24 establish standards for processing an environmental review
25 document for a highway project. The standards must increase
26 efficiency, minimize delays, and encourage collaboration and
27 cooperation by the department with a local government sponsor, with

1 a goal of prompt approval of legally sufficient documents.

2 (b) The standards apply regardless of whether the
3 environmental review document is prepared by the department or a
4 local government sponsor. The standards apply to work performed by
5 the sponsor and to the department's review process and
6 environmental decision.

7 (c) The standards must address, for each type of
8 environmental review document:

9 (1) the issues and subject matter to be included in the
10 project scope prepared under Section 201.754;

11 (2) the required content of a draft environmental
12 review document;

13 (3) the process to be followed in considering each
14 type of environmental review document; and

15 (4) review deadlines, including the deadlines in
16 Section 201.759.

17 (d) The standards must include a process for resolving
18 disputes arising under this subchapter, provided that the dispute
19 resolution process must be concluded not later than the 60th day
20 after the date either party requests dispute resolution.

21 Sec. 201.753. ENVIRONMENTAL REVIEW LIMITED TO CERTAIN
22 PROJECTS. (a) A local government sponsor or the department may
23 prepare an environmental review document for a highway project only
24 if the highway project is:

25 (1) identified in the financially constrained portion
26 of the approved state transportation improvement program or the
27 financially constrained portion of the approved unified

1 transportation program; or

2 (2) identified by the commission as being eligible for
3 participation under this subchapter.

4 (b) Notwithstanding Subsection (a), a local government
5 sponsor may prepare an environmental review document for a highway
6 project that is not identified by the commission or in a program
7 described by Subsection (a) if the sponsor submits with its notice
8 under Section 201.755 a fee in an amount established by commission
9 rule, but not to exceed the actual cost of reviewing the
10 environmental review document.

11 (c) A fee received by the department under Subsection (b)
12 must be deposited in the state highway fund and used to pay costs
13 incurred under this subchapter.

14 Sec. 201.754. SCOPE OF PROJECT. If an environmental review
15 document is prepared by a local government sponsor, the local
16 government sponsor must prepare a detailed scope of the project in
17 collaboration with the department before the department may process
18 the environmental review document.

19 Sec. 201.755. NOTICE TO DEPARTMENT. (a) A local
20 government sponsor may submit notice to the department proposing
21 that the local government sponsor prepare the environmental review
22 document for a highway project.

23 (b) The notice must include:

24 (1) the project scope prepared under Section 201.754;

25 and

26 (2) a request for classification of the project.

27 Sec. 201.756. LOCAL GOVERNMENT SPONSOR RESPONSIBILITIES. A

1 local government sponsor that submits notice under Section 201.755
2 is responsible for preparing all materials for:

- 3 (1) project scope determination;
- 4 (2) environmental reports;
- 5 (3) the environmental review document;
- 6 (4) environmental permits and conditions;
- 7 (5) coordination with resource agencies; and
- 8 (6) public participation.

9 Sec. 201.757. DETERMINATION OF ADMINISTRATIVELY COMPLETE
10 ENVIRONMENTAL REVIEW DOCUMENT. (a) A local government sponsor's
11 submission of an environmental review document must include a
12 statement from the local government sponsor that the document is
13 administratively complete, ready for technical review, and
14 compliant with all applicable requirements.

15 (b) Not later than the 20th day after the date the
16 department receives a local government sponsor's environmental
17 review document, the department shall either:

- 18 (1) issue a letter confirming that the document is
19 administratively complete and ready for technical review; or
- 20 (2) decline to issue a letter confirming that the
21 document is administratively complete and ready for technical
22 review, in accordance with Section 201.758.

23 Sec. 201.758. DEPARTMENT DECLINES TO CONFIRM THAT DOCUMENT
24 IS ADMINISTRATIVELY COMPLETE. (a) The department may decline to
25 issue a letter confirming that a document is administratively
26 complete and ready for technical review only if the department
27 sends a written response to the local government sponsor specifying

1 in reasonable detail the basis for its conclusions, including a
2 listing of any required information determined by the department to
3 be missing from the document.

4 (b) If the department provides notice under Subsection (a),
5 the department shall undertake all reasonable efforts to cooperate
6 with the local government sponsor in a timely manner to ensure that
7 the document is administratively complete.

8 (c) The local government sponsor may resubmit any
9 environmental review document determined by the department under
10 Section 201.757 not to be administratively complete, and the
11 department shall issue a determination letter on the resubmitted
12 document not later than the 20th day after the date the document is
13 resubmitted.

14 Sec. 201.759. REVIEW DEADLINES. (a) The following
15 deadlines must be included in the standards adopted under Section
16 201.752:

17 (1) the department shall issue a classification letter
18 not later than the 30th day after the date the department receives
19 notice from a local government sponsor under Section 201.755;

20 (2) for a project classified as a programmatic
21 categorical exclusion, the environmental decision must be rendered
22 not later than the 60th day after the date the supporting
23 documentation is received by the department;

24 (3) for a project classified as a categorical
25 exclusion, the environmental decision must be rendered not later
26 than the 90th day after the date the supporting documentation is
27 received by the department;

1 (4) for a project that requires the preparation of an
2 environmental assessment:

3 (A) the department must provide all department
4 comments on a draft environmental assessment not later than the
5 90th day after the date the draft is received by the department; and

6 (B) the department must render the environmental
7 decision on the project not later than the 60th day after the later
8 of:

9 (i) the date the revised environmental
10 assessment is submitted to the department; or

11 (ii) the date the public involvement
12 process concludes;

13 (5) the department must render the environmental
14 decision on any reevaluation not later than the 120th day after the
15 date the supporting documentation is received by the department;
16 and

17 (6) for a project that requires the preparation of an
18 environmental impact statement, the department shall render the
19 environmental decision not later than the 120th day after the date
20 the draft final environmental impact statement is submitted.

21 (b) Review deadlines under this section specify the date by
22 which the department will render the environmental decision on a
23 project or the time frames by which the department will make a
24 recommendation to the Federal Highway Administration, as
25 applicable.

26 (c) A deadline that falls on a weekend or official state
27 holiday is considered to occur on the next business day.

1 Sec. 201.760. SUSPENSION OF TIME PERIODS. The computation
2 of review deadlines under Section 201.759 does not begin until an
3 environmental review document is determined to be administratively
4 complete, and is suspended during any period in which:

5 (1) the document that is the subject of the review is
6 being revised by or on behalf of the local government sponsor in
7 response to department comments;

8 (2) the highway project is the subject of additional
9 work, including a change in design of the project, and during the
10 identification and resolution of new significant issues; or

11 (3) the local government sponsor is preparing a
12 response to any issue raised by legal counsel for the department
13 concerning compliance with applicable law.

14 Sec. 201.761. AGREEMENT BETWEEN LOCAL GOVERNMENT SPONSOR
15 AND DEPARTMENT. Notwithstanding any provision of this subchapter
16 or any other law, a local government sponsor and the department may
17 enter into an agreement that defines the relative roles and
18 responsibilities of the parties in the preparation and review of
19 environmental review documents for a specific project. For a
20 project for which an environmental decision requires the approval
21 of the Federal Highway Administration and to the extent otherwise
22 permitted by law, the Federal Highway Administration may also be a
23 party to an agreement between a local government sponsor and the
24 department under this section.

25 Sec. 201.762. REPORTS TO COMMISSION AND LEGISLATURE.
26 (a) Not later than June 30 and December 31 of each year, the
27 department shall submit a report to the commission at a regularly

1 scheduled commission meeting identifying projects being processed
2 under the procedures of this subchapter and the status of each
3 project, including:

4 (1) how the project was classified for environmental
5 review;

6 (2) the current status of the environmental review;

7 (3) the date on which the department is required to
8 make an environmental decision under applicable deadlines;

9 (4) an explanation of any delays; and

10 (5) any deadline under Section 201.759 missed by the
11 department.

12 (b) Not later than December 1 of each year, the department
13 shall submit a report to the members of the standing legislative
14 committees with primary jurisdiction over matters related to
15 transportation regarding the implementation of this subchapter,
16 including a status report for the preceding 12-month period that
17 contains the information described in Subsection (a).

18 (c) The department shall post copies of the reports required
19 under this section on its Internet website and shall provide a copy
20 of the report required by Subsection (b) to each member of the
21 legislature who has at least one project covered by the report in
22 the member's district.

23 (d) The department shall make available on its Internet
24 website and update regularly the status of projects being processed
25 under this subchapter.

26 (b) The Texas Transportation Commission shall adopt rules
27 to implement Subchapter I-1, Chapter 201, Transportation Code, as

1 added by this Act, not later than March 1, 2012.

2 (c) Subchapter I-1, Chapter 201, Transportation Code, as
3 added by this Act, applies only to a notice of a local government
4 sponsor proposing the sponsor's preparation of an environmental
5 review document that is received by the Texas Department of
6 Transportation on or after the effective date of this Act.
7 Submissions to the Texas Department of Transportation received
8 before the effective date of this Act are governed by the law in
9 effect on the date the submission was received, and that law is
10 continued in effect for that purpose.

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

13 Sec. 201.801. [~~INFORMATION ABOUT DEPARTMENT,~~] COMPLAINTS.

14 (a) The department shall maintain a system to promptly and
15 efficiently act on complaints filed with the department. The
16 department shall maintain information about the parties to and the
17 subject matter of a complaint and a summary of the results of the
18 review or investigation of the complaint and the disposition of the
19 complaint.

20 (b) The department shall make information available
21 describing its procedures for complaint investigation and
22 resolution [~~prepare information of public interest describing the~~
23 ~~functions of the department and the department's procedures by~~
24 ~~which a complaint is filed with the department and resolved by the~~
25 ~~department. The department shall make the information available to~~
26 ~~the public and appropriate state agencies]~~.

27 [~~(b) The commission by rule shall establish methods by which~~

1 ~~consumers and service recipients are notified of the department's~~
2 ~~name, mailing address, and telephone number for directing~~
3 ~~complaints to the department. The commission may provide for that~~
4 ~~notification:~~

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

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

10 ~~or~~

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

13 (c) ~~[The department shall:~~

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

17 ~~[(2) provide the person who filed the complaint, and~~
18 ~~each person or entity that is the subject of the complaint,~~
19 ~~information about the department's policies and procedures~~
20 ~~relating to complaint investigation and resolution.~~

21 ~~[(d)] The department[, at least quarterly and until final~~
22 ~~disposition of a written complaint that is filed with the~~
23 ~~department and that the department has the authority to resolve,]~~

24 shall periodically notify the parties to the complaint of its
25 status until final disposition unless the notice would jeopardize
26 an undercover investigation.

27 (d) The commission shall adopt rules applicable to each

1 division and district to establish a process to act on complaints
2 filed with the department [~~(e) With regard to each complaint filed~~
3 ~~with the department, the department shall keep the following~~
4 ~~information:~~

5 ~~(1) the date the complaint is filed,~~

6 ~~(2) the name of the person filing the complaint,~~

7 ~~(3) the subject matter of the complaint,~~

8 ~~(4) a record of each person contacted in relation to~~
9 ~~the complaint,~~

10 ~~(5) a summary of the results of the review or~~
11 ~~investigation of the complaint, and~~

12 ~~(6) if the department takes no action on the~~
13 ~~complaint, an explanation of the reasons that no action was taken].~~

14 (e) The department shall develop a standard form for
15 submitting a complaint and make the form available on its Internet
16 website. The department shall establish a method to submit
17 complaints electronically.

18 (f) The department shall develop a method for analyzing the
19 sources and types of complaints and violations and establish
20 categories for the complaints and violations. The department shall
21 use the analysis to focus its information and education efforts on
22 specific problem areas identified through the analysis.

23 (g) The department shall:

24 (1) compile:

25 (A) detailed statistics and analyze trends on
26 complaint information, including:

27 (i) the nature of the complaints;

1 (ii) their disposition; and
2 (iii) the length of time to resolve
3 complaints; and

4 (B) complaint information on a district and a
5 divisional basis; and

6 (2) report the information on a monthly basis to the
7 division directors, office directors, and district engineers and on
8 a quarterly basis to the commission.

9 (b) The Texas Transportation Commission shall adopt rules
10 under Section 201.801, Transportation Code, as amended by this
11 section, not later than March 1, 2012.

12 SECTION 15. Subsection (a), Section 201.802,
13 Transportation Code, is amended to read as follows:

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

18 SECTION 16. (a) Subchapter J, Chapter 201, Transportation
19 Code, is amended by adding Sections 201.807, 201.808, 201.809,
20 201.810, and 201.811 to read as follows:

21 Sec. 201.807. PROJECT INFORMATION REPORTING SYSTEM.

22 (a) In this section, "department project" means a highway project
23 under the jurisdiction of the department, including a grouped
24 rehabilitation and preventive maintenance project, that:

25 (1) is being developed or is under construction; and
26 (2) is identified in the work program required under
27 Section 201.999.

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

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

- 22 (2) the department's funds, including each source for
23 the department's funds, and the amount and general type or purpose
24 of each expenditure as described in the comptroller's statewide
25 accounting system, reported by each:
26 (A) department district;
27 (B) program funding category as required by

1 Section 201.992(b)(2); and

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

4 (c) In developing the project information reporting system,
5 the department shall collaborate with:

6 (1) the legislature;

7 (2) local transportation entities as defined by
8 Section 201.991; and

9 (3) members of the public.

10 (d) The department shall make the statistical information
11 provided under this section available on the department's Internet
12 website in more than one downloadable electronic format.

13 (e) As a component of the project information reporting
14 system required by this section, the department shall conduct an
15 annual review of the benchmarks and timelines of each project
16 included in the department's transportation plans, including the
17 unified transportation program, to determine the completion rates
18 of the projects and whether the projects were completed on time.

19 (f) The department shall update the information contained
20 in the project information reporting system on a regular basis, as
21 specified by commission rule.

22 Sec. 201.808. TRANSPORTATION EXPENDITURE PRIORITIES.

23 (a) The department shall develop a process to identify and
24 distinguish between the transportation projects that are required
25 to maintain the state infrastructure and the transportation
26 projects that would improve the state infrastructure in a manner
27 consistent with the statewide transportation plan required by

1 Section 201.601.

2 (b) The department shall establish a transportation
3 expenditure reporting system that makes available in a central
4 location on the department's Internet website easily accessible and
5 searchable information regarding the priorities of transportation
6 expenditures for the identified transportation projects.

7 (c) The department shall include in the transportation
8 expenditure reporting system:

9 (1) reports prepared by the department or an
10 institution of higher education that evaluate the effectiveness of
11 the department's expenditures on transportation projects to
12 achieve the transportation goal;

13 (2) information about the condition of the pavement
14 for each highway under the jurisdiction of the department,
15 including the percentage of pavement that the department
16 determines to be in good or better condition;

17 (3) the condition of bridges, including information
18 about bridge condition scores;

19 (4) information about peak-hour travel congestion in
20 the eight largest metropolitan areas of the state; and

21 (5) information about the number of traffic fatalities
22 per 100 million miles traveled.

23 (d) The department shall provide the information made
24 available under Subsection (c) in a format that allows a person to
25 conduct electronic searches for information regarding a specific
26 county, highway under the jurisdiction of the department, or type
27 of road.

1 (e) The department shall establish criteria to prioritize
2 the transportation needs for the state that are consistent with the
3 statewide transportation plan.

4 (f) Each department district shall enter information into
5 the transportation expenditure reporting system, including
6 information about:

7 (1) each district transportation project; and

8 (2) the category to which the project has been
9 assigned and the priority of the project in the category under
10 Section 201.996.

11 (g) The transportation expenditure reporting system shall
12 allow a person to compare information produced by that system to
13 information produced by the project information reporting system.

14 Sec. 201.809. STATEWIDE TRANSPORTATION REPORT. (a) The
15 department annually shall evaluate and publish a report about the
16 status of each transportation goal for this state. The report must
17 include:

18 (1) information about the progress of each long-term
19 transportation goal that is identified by the statewide
20 transportation plan;

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

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

25 (4) information about the accuracy of previous
26 department financial forecasts.

27 (b) The department shall disaggregate the information in

1 the report by department district.

2 (c) The department shall provide a copy of the district
3 report to each member of the legislature for each department
4 district located in the member's legislative district, and at the
5 request of a member, a department employee shall meet with the
6 member to explain the report.

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

10 (1) a municipality;

11 (2) a county; and

12 (3) a local transportation entity as defined by
13 Section 201.991.

14 Sec. 201.810. DEPARTMENT INFORMATION CONSOLIDATION.

15 (a) To the extent practicable and to avoid duplication of
16 reporting requirements, the department may combine the reports
17 required under this subchapter with reports required under other
18 provisions of this code.

19 (b) The department shall develop a central location on the
20 department's Internet website that provides easily accessible and
21 searchable information to the public contained in the reports
22 required under this subchapter and other provisions of this code.

23 Sec. 201.811. PUBLIC INVOLVEMENT POLICY. (a) The

24 department shall develop and implement a policy for public
25 involvement that guides and encourages public involvement with the
26 department. The policy must:

27 (1) provide for the use of public involvement

1 techniques that target different groups and individuals;
2 (2) encourage continuous contact between the
3 department and persons outside the department throughout the
4 transportation decision-making process;
5 (3) require the department to make efforts toward:
6 (A) clearly tying public involvement to
7 decisions made by the department; and
8 (B) providing clear information to the public
9 about specific outcomes of public input; and
10 (4) apply to all public input with the department,
11 including input:
12 (A) on statewide transportation policy-making;
13 (B) in connection with the environmental process
14 relating to specific projects; and
15 (C) into the commission's rulemaking procedures.
16 (b) The department shall document the number of positive,
17 negative, or neutral public comments received regarding all
18 environmental impact statements as expressed by the public through
19 the department's public involvement process. The department shall:
20 (1) present this information to the commission in an
21 open meeting; and
22 (2) report this information on the department's
23 Internet website in a timely manner.
24 (b) Not later than September 1, 2011, the Texas Department
25 of Transportation shall establish the central location on the
26 department's Internet website required by Section 201.810,
27 Transportation Code, as added by this section.

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

3 SUBCHAPTER P. UNIFIED TRANSPORTATION PROGRAM

4 Sec. 201.991. DEFINITION. In this subchapter, "local
5 transportation entity" means any entity that participates in the
6 transportation planning process. The term includes a metropolitan
7 planning organization as defined by Section 472.031, a regional
8 tollway authority organized under Chapter 366, a regional
9 transportation authority operating under Chapter 452, and a rural
10 transit district as defined by Section 458.001.

11 Sec. 201.992. UNIFIED TRANSPORTATION PROGRAM. (a) The
12 department shall develop a unified transportation program covering
13 a period of 10 years to guide the development of and authorize
14 construction of transportation projects. The program must:

15 (1) annually identify target funding levels; and

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

18 (b) The commission shall adopt rules that:

19 (1) specify the criteria for selecting projects to be
20 included in the program;

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

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

26 (c) The department shall publish the entire unified
27 transportation program and summary documents highlighting project

1 benchmarks, priorities, and forecasts in appropriate media and on
2 the department's Internet website in a format that is easily
3 understandable by the public.

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

6 Sec. 201.993. ANNUAL UPDATE TO UNIFIED TRANSPORTATION
7 PROGRAM. (a) The department shall annually update the unified
8 transportation program.

9 (b) The annual update must include:

10 (1) the annual funding forecast required by Section
11 201.994;

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

14 (3) the category to which the project has been
15 assigned and the priority of the project in the category under
16 Section 201.996.

17 (c) The department shall collaborate with local
18 transportation entities to develop the annual update to the unified
19 transportation program.

20 Sec. 201.994. ANNUAL FUNDING AND CASH FLOW FORECASTS.

21 (a) The department annually shall:

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

25 (2) use that forecast to guide planning for the
26 unified transportation program.

27 (b) The department shall collaborate with local

1 transportation entities to develop scenarios for the forecast
2 required by Subsection (a) based on mutually acceptable funding
3 assumptions.

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

7 Sec. 201.995. MAJOR TRANSPORTATION PROJECTS. (a) The
8 commission by rule shall:

9 (1) establish criteria for designating a project as a
10 major transportation project;

11 (2) develop benchmarks for evaluating the progress of
12 a major transportation project and timelines for implementation and
13 construction of a major transportation project; and

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

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

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

21 Sec. 201.996. PRIORITY PROJECTS IN PROGRAM CATEGORIES.

22 (a) The commission by rule shall:

23 (1) establish categories in the unified
24 transportation program;

25 (2) assign each project identified in the program to a
26 category; and

27 (3) designate the priority ranking of each project

1 within each category.

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

6 (c) The highest priority projects within an applicable
7 category of the unified transportation program must be projects
8 designated as major transportation projects.

9 Sec. 201.997. FUNDING ALLOCATION. (a) For each funding
10 category established under Section 201.992(b)(2), the commission
11 by rule shall specify the formulas for allocating funds to
12 districts and metropolitan planning organizations for:

13 (1) preventive maintenance and rehabilitation of the
14 state highway system in all districts;

15 (2) mobility and added capacity projects in
16 metropolitan and urban areas;

17 (3) mobility and added capacity projects on major
18 state highways that provide statewide connectivity between urban
19 areas and highway system corridors;

20 (4) congestion mitigation and air quality improvement
21 projects in nonattainment areas;

22 (5) metropolitan mobility and added capacity projects
23 within the boundaries of designated metropolitan planning areas of
24 metropolitan planning organizations located in a transportation
25 management area;

26 (6) transportation enhancements project funding; and

27 (7) projects eligible for federal or state funding, as

1 determined by the applicable district engineer.

2 (b) Subject to applicable state and federal law, the
3 commission shall determine the allocation of funds in all of the
4 other categories established under Section 201.992(b)(2),
5 including a category for projects of specific importance to the
6 state, including projects that:

7 (1) promote economic opportunity;

8 (2) increase efficiency on military deployment routes
9 or that retain military assets; and

10 (3) maintain the ability of appropriate entities to
11 respond to emergencies.

12 (c) The commission shall update the formulas established
13 under this section at least every four years.

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

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

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

25 (b) The work program must contain:

26 (1) information regarding the progress of projects
27 designated as major transportation projects, according to project

1 implementation benchmarks and timelines established under Section
2 201.995; and

3 (2) a summary of the progress on other district
4 projects.

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

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

7 (2) evaluate the performance of district employees.

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

10 SECTION 18. Section 202.021, Transportation Code, is
11 amended by amending Subsection (e) and adding Subsection (e-1) to
12 read as follows:

13 (e) The commission may waive payment for real property
14 transferred to a governmental entity under this section if:

15 (1) the estimated cost of future maintenance on the
16 property equals or exceeds the fair value of the property; or

17 (2) the property is a highway right-of-way and the
18 governmental entity assumes or has assumed jurisdiction, control,
19 and maintenance of the right-of-way for public road purposes.

20 (e-1) A grant transferring real property under Subsection
21 (e)(2) must contain a reservation providing that if property
22 described by that subsection ceases to be used for public road
23 purposes, that real property shall immediately and automatically
24 revert to this state.

25 SECTION 19. Section 223.002, Transportation Code, is
26 amended to read as follows:

27 Sec. 223.002. NOTICE OF BIDS [~~BY PUBLICATION~~]. [~~(a)~~] The

1 department shall give [~~publish~~] notice to interested persons
2 regarding [~~of~~] the time and place at which bids on a contract will
3 be opened and the contract awarded. The commission by rule shall
4 determine the most effective method for providing the notice
5 required by this section.

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

10 [~~(c) Instead of the notice required by Subsection (b), if~~
11 ~~the department estimates that the contract involves an amount less~~
12 ~~than \$300,000, notice may be published in two successive issues of a~~
13 ~~newspaper published in the county in which the improvement is to be~~
14 ~~made.~~

15 [~~(d) If a newspaper is not published in the county in which~~
16 ~~the improvement is to be made, notice shall be published in a~~
17 ~~newspaper published in the county:~~

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

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

21 SECTION 20. Subchapter A, Chapter 223, Transportation Code,
22 is amended by adding Section 223.017 to read as follows:

23 Sec. 223.017. DESIGN-BUILD CONTRACTS FOR NONTOLLED HIGHWAY
24 PROJECTS. (a) In this section, "design-build contract" means an
25 agreement with a private entity for the design and construction,
26 rehabilitation, expansion, or improvement of a highway project that
27 may include the maintenance of the highway but does not include the

1 financing or operation of the highway.

2 (b) Notwithstanding the requirements of this subchapter and
3 Chapter 2254, Government Code, the department may enter into a
4 design-build contract for a nontolled highway project.

5 (c) If the department enters into a design-build contract
6 under this section, the department shall use a competitive
7 procurement process that provides the best value for the
8 department.

9 (d) The commission shall adopt rules to implement this
10 section. Rules adopted under this subsection shall establish:

11 (1) criteria for selecting projects to be developed
12 under a design-build contract, which must include consideration of:

13 (A) project size and complexity; and

14 (B) the timeliness of project completion under
15 the proposed schedule;

16 (2) procedures for selecting a developer for a
17 design-build contract, including criteria relating to the
18 qualifications of participants and the award of a contract; and

19 (3) other criteria the commission considers
20 appropriate.

21 SECTION 21. Section 391.004, Transportation Code, is
22 amended to read as follows:

23 Sec. 391.004. DISPOSITION OF FEES [~~TEXAS HIGHWAY~~
24 ~~BEAUTIFICATION FUND ACCOUNT~~]. [~~The Texas highway beautification~~
25 ~~fund account is an account in the general revenue fund.~~] Money the
26 commission receives under this chapter shall be deposited to the
27 credit of the state [~~Texas~~] highway [~~beautification~~] fund

1 ~~[account]~~. The commission shall use money in the state ~~[Texas]~~
2 highway ~~[beautification]~~ fund ~~[account]~~ to administer this chapter
3 and Chapter 394.

4 SECTION 22. (a) Subchapter A, Chapter 391, Transportation
5 Code, is amended by adding Section 391.006 to read as follows:

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

10 (1) a process to make information available describing
11 the department's procedures for complaint investigation and
12 resolution, including making information about the procedures
13 available on the department's Internet website;

14 (2) a system to prioritize complaints so that the most
15 serious complaints receive attention before less serious
16 complaints; and

17 (3) a procedure for compiling and reporting detailed
18 annual statistics about complaints.

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

23 (c) The department shall keep, pursuant to the department's
24 approved records retention schedule, an information file about each
25 written complaint filed with the department that the department has
26 authority to resolve. The department shall keep the following
27 information for each complaint for the purpose of enforcing this

1 chapter:

2 (1) the date the complaint is filed;

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

4 (3) the subject matter of the complaint;

5 (4) each person contacted in relation to the
6 complaint;

7 (5) a summary of the results of the review or
8 investigation of the complaint; and

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

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

17 (b) The Texas Transportation Commission shall adopt rules
18 under Section 391.006, Transportation Code, as added by this
19 section, not later than September 1, 2012.

20 SECTION 23. Subchapter B, Chapter 391, Transportation Code,
21 is amended by adding Section 391.0355 to read as follows:

22 Sec. 391.0355. ADMINISTRATIVE PENALTY. (a) In lieu of a
23 suit to collect a civil penalty, the commission, after notice and an
24 opportunity for a hearing before the commission, may impose an
25 administrative penalty against a person who violates this chapter
26 or a rule adopted by the commission under this chapter. Each day a
27 violation continues is a separate violation.

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

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

5 (d) Judicial review of an appeal of an administrative
6 penalty imposed under this section is under the substantial
7 evidence rule.

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

10 SECTION 24. Section 391.063, Transportation Code, is
11 amended to read as follows:

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

16 SECTION 25. Subsection (b), Section 391.065,
17 Transportation Code, is amended to read as follows:

18 (b) For the efficient management and administration of this
19 chapter and to reduce the number of employees required to enforce
20 this chapter, the commission shall adopt rules for issuing
21 standardized forms that are for submission by license holders and
22 applicants and that provide for an accurate showing of the number,
23 location, or other information required by the commission for each
24 license holder's or applicant's outdoor advertising or off-premise
25 signs under Chapter 394.

26 SECTION 26. Section 391.066, Transportation Code, is
27 amended by adding Subsection (d) to read as follows:

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

4 SECTION 27. Subchapter C, Chapter 391, Transportation Code,
5 is amended by adding Section 391.0661 to read as follows:

6 Sec. 391.0661. APPLICABILITY OF LICENSE. In addition to
7 authorizing a person to erect or maintain outdoor advertising, a
8 license issued under this chapter authorizes a person to erect or
9 maintain an off-premise sign under Chapter 394.

10 SECTION 28. Section 394.005, Transportation Code, is
11 amended to read as follows:

12 Sec. 394.005. DISPOSITION OF FEES. Money the commission
13 receives [~~A registration fee collected~~] under this chapter [~~Section~~
14 ~~394.048 by the commission~~] shall be deposited to the credit of the
15 state highway fund.

16 SECTION 29. (a) Subchapter A, Chapter 394, Transportation
17 Code, is amended by adding Section 394.006 to read as follows:

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

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

26 (2) a system to prioritize complaints so that the most
27 serious complaints receive attention before less serious

1 complaints; and

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

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

8 (c) The department shall keep, pursuant to the department's
9 approved records retention schedule, an information file about each
10 written complaint filed with the department that the department has
11 authority to resolve. The department shall keep the following
12 information for each complaint for the purpose of enforcing this
13 chapter:

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) each person contacted in relation to the
18 complaint;

19 (5) a summary of the results of the review or
20 investigation of the complaint; and

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

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

1 investigation.

2 (b) The Texas Transportation Commission shall adopt rules
3 under Section 394.006, Transportation Code, as added by this
4 section, not later than September 1, 2012.

5 SECTION 30. The heading to Subchapter B, Chapter 394,
6 Transportation Code, is amended to read as follows:

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

8 SECTION 31. (a) Subchapter B, Chapter 394, Transportation
9 Code, is amended by adding Sections 394.0201, 394.0202, 394.0203,
10 394.0204, 394.0205, 394.0206, 394.0207, 394.027, 394.028, and
11 394.029 to read as follows:

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

16 (b) An offense under this section is a misdemeanor
17 punishable by a fine of not less than \$500 or more than \$1,000. Each
18 day of the proscribed conduct is a separate offense.

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

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

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

25 (2) pays the appropriate license fee; and

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

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

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

6 Sec. 394.0203. LICENSE FEE. The commission may set the
7 amount of a license fee according to a scale graduated by the number
8 of off-premise signs and units of outdoor advertising under Chapter
9 391 owned by a license applicant.

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

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

15 (2) payable to the commission for reimbursement for
16 removal costs of an off-premise sign that the license holder
17 unlawfully erects or maintains.

18 (b) A person may not be required to provide more than
19 \$10,000 in surety bonds.

20 Sec. 394.0205. RULES; FORMS. (a) The commission may adopt
21 rules to implement Sections 394.0201(a), 394.0202, 394.0203,
22 394.0204, and 394.0206.

23 (b) For the efficient management and administration of this
24 chapter and to reduce the number of employees required to enforce
25 this chapter, the commission shall adopt rules for issuing
26 standardized forms that are for submission by license holders and
27 applicants and that provide for an accurate showing of the number,

1 location, or other information required by the commission for each
2 license holder's or applicant's off-premise signs or outdoor
3 advertising under Chapter 391.

4 (c) The commission may not adopt a rule under this chapter
5 that restricts competitive bidding or advertising by the holder of
6 a license issued under this chapter other than a rule to prohibit
7 false, misleading, or deceptive practices. The limitation provided
8 by this section applies only to rules relating to the occupation of
9 outdoor advertiser and does not affect the commission's power to
10 regulate the orderly and effective display of an off-premise sign
11 under this chapter. A rule to prohibit false, misleading, or
12 deceptive practices may not:

13 (1) restrict the use of:

14 (A) any legal medium for an advertisement;

15 (B) the license holder's advertisement under a
16 trade name; or

17 (C) the license holder's personal appearance or
18 voice in an advertisement, if the license holder is an individual;
19 or

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

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

23 (a) The commission may revoke or suspend a license issued under
24 this subchapter or place on probation a license holder whose
25 license is suspended if the license holder violates this chapter or
26 a rule adopted under this chapter. If the suspension of the license
27 is probated, the department may require the license holder to

1 report regularly to the commission on any matter that is the basis
2 of the probation.

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

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

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

11 Sec. 394.0207. APPLICABILITY OF LICENSE. In addition to
12 authorizing a person to erect or maintain an off-premise sign, a
13 license issued under this chapter authorizes a person to erect or
14 maintain outdoor advertising under Chapter 391.

15 Sec. 394.027. DENIAL OF PERMIT; APPEAL. The commission may
16 create a process by which an applicant may appeal a denial of a
17 permit under this subchapter.

18 Sec. 394.028. FEE AMOUNTS. The license and permit fees
19 required by this subchapter may not exceed an amount reasonably
20 necessary to cover the administrative costs incurred to enforce
21 this chapter.

22 Sec. 394.029. EXCEPTIONS FOR CERTAIN NONPROFIT
23 ORGANIZATIONS. (a) The combined license and permit fees under
24 this subchapter may not exceed \$10 for an off-premise sign erected
25 and maintained by a nonprofit organization in a municipality or a
26 municipality's extraterritorial jurisdiction if the sign relates
27 to or promotes only the municipality or a political subdivision

1 whose jurisdiction is wholly or partly concurrent with the
2 municipality.

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

5 (b) The change in law made by Section 394.0201,
6 Transportation Code, as added by this section, applies only to an
7 off-premise sign erected or for which the permit expires on or after
8 the effective date of this Act. An off-premise sign for which a
9 permit is issued before the effective date of this Act is covered by
10 the law in effect when the permit was issued, and the former law is
11 continued in effect for that purpose.

12 SECTION 32. Section 394.050, Transportation Code, is
13 amended to read as follows:

14 Sec. 394.050. [~~BOARD OF~~] VARIANCE. The commission or a
15 person designated by the commission [~~shall provide for a board of~~
16 ~~variance that~~], in an appropriate case and subject to an
17 appropriate condition or safeguard, may make a special exception to
18 this chapter regarding a permit for an off-premise outdoor sign on a
19 rural road.

20 SECTION 33. Subsections (a) and (d), Section 394.082,
21 Transportation Code, are amended to read as follows:

22 (a) In lieu of a suit to collect a civil penalty, the
23 commission, after notice and an opportunity for a hearing before
24 the commission, may impose an administrative penalty against a
25 person who [~~intentionally~~] violates this chapter or a rule adopted
26 by the commission under this chapter. Each day a violation
27 continues is a separate violation.

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

4 SECTION 34. Subchapter D, Chapter 472, Transportation Code,
5 is amended by adding Section 472.035 to read as follows:

6 Sec. 472.035. COORDINATION WITH DEPARTMENT TO DEVELOP
7 LONG-TERM PLANNING ASSUMPTIONS. Each metropolitan planning
8 organization shall work with the department to develop mutually
9 acceptable assumptions for the purposes of long-range federal and
10 state funding forecasts and use those assumptions to guide
11 long-term planning in the organization's long-range transportation
12 plan.

13 SECTION 35. Chapter 544, Transportation Code, is amended by
14 adding Section 544.013 to read as follows:

15 Sec. 544.013. CHANGEABLE MESSAGE SIGN SYSTEM. (a) In this
16 section, "changeable message sign" means a sign that conforms to
17 the manual and specifications adopted under Section 544.001. The
18 term includes a dynamic message sign.

19 (b) The Texas Department of Transportation in cooperation
20 with local governments shall actively manage a system of changeable
21 message signs located on highways under the jurisdiction of the
22 department to mitigate traffic congestion by providing current
23 information to the traveling public, including information about
24 traffic incidents, weather conditions, road construction, and
25 alternative routes when applicable.

26 SECTION 36. Subchapter A, Chapter 621, Transportation Code,
27 is amended by adding Section 621.008 to read as follows:

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

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

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

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

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

15 (4) eliminating all exemptions for overweight
16 vehicles; and

17 (5) the feasibility and impact of different approaches
18 to regulating oversize and overweight vehicles that would help
19 reduce damage to roads and bridges and provide increased funding
20 for maintenance costs in the future.

21 (c) Not later than December 31, 2011, the department shall
22 report the results of the study conducted under this section to the
23 governor, the lieutenant governor, the speaker of the house of
24 representatives, and the appropriate oversight committee of each
25 house of the legislature.

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

27 SECTION 37. Section 201.0545, Transportation Code, is

1 repealed.

2 SECTION 38. This Act takes effect September 1, 2011.