

By: Carona

S.B. No. 1018

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the agreements, costs, revenues, and finances of
3 regional tollway authorities; authorizing taxes, fees, and
4 assessments.

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

6 SECTION 1. Subsection (d), Section 222.108, Transportation
7 Code, is amended to read as follows:

8 (d) In this section, "transportation project" has the
9 meaning assigned by Section 370.003 and includes a turnpike project
10 and a system under Section 366.003.

11 SECTION 2. Subsection (e), Section 222.110, Transportation
12 Code, is amended to read as follows:

13 (e) The sales and use taxes to be deposited into the tax
14 increment account under this section may be disbursed from the
15 account only to:

16 (1) pay for the transportation project for which the
17 transportation reinvestment zone was designated, and for aesthetic
18 improvements within the zone [~~projects authorized under Section~~
19 ~~222.104~~], including the repayment of amounts owed under a contract
20 [~~an agreement~~] entered into under Section 222.106 or 222.107, as
21 applicable [~~that section~~]; and

22 (2) notwithstanding Sections 321.506 and 323.505, Tax
23 Code, satisfy claims of holders of tax increment bonds, notes, or
24 other obligations issued or incurred for a transportation project

1 for which the zone was designated [~~projects authorized under~~
2 ~~Section 222.104~~].

3 SECTION 3. Subdivisions (8), (9), and (11), Section
4 366.003, Transportation Code, are amended to read as follows:

5 (8) "Governmental [~~Local governmental~~] entity" means
6 a political subdivision of the state, including a municipality or a
7 county, a political subdivision of a county, a group of adjoining
8 counties, a district organized or operating under Section 52,
9 Article III, or Section 59, Article XVI, Texas Constitution, the
10 department, another state agency, [~~or~~] a nonprofit corporation,
11 including a transportation corporation created under Chapter 431,
12 or any other public entity or instrumentality.

13 (9) "Revenue" means the tolls, rents, and other money
14 received by an authority:

15 (A) from the ownership or operation of a turnpike
16 project; or

17 (B) under an agreement under Section 366.302 or
18 366.303.

19 (11) "Turnpike project" means a highway of any number
20 of lanes, with or without grade separations, owned or operated
21 wholly or partly by an authority under this chapter and any
22 improvement, extension, or expansion to that highway, including:

23 (A) an improvement to relieve traffic congestion
24 and promote safety;

25 (B) a bridge, tunnel, overpass, underpass,
26 interchange, service road, ramp, entrance plaza, approach, or
27 tollhouse;

1 (C) an administration, storage, or other
2 building the authority considers necessary to operate the turnpike
3 project;

4 (D) a parking area or structure, rest stop, park,
5 and other improvement or amenity the authority considers necessary,
6 useful, or beneficial for the operation of a turnpike project;
7 ~~and~~

8 (E) property rights, easements, and interests
9 the authority acquires to construct or operate the turnpike
10 project; and

11 (F) improvements in a transportation
12 reinvestment zone designated under Subchapter E, Chapter 222.

13 SECTION 4. Section 366.004, Transportation Code, is amended
14 to read as follows:

15 Sec. 366.004. ~~[CONSTRUCTION]~~ COSTS OF TURNPIKE DEFINED.

16 (a) The cost of ~~[acquisition, construction, improvement,~~
17 ~~extension, or expansion of]~~ a turnpike project or system under this
18 chapter includes the cost of:

19 (1) the actual acquisition, construction,
20 improvement, extension, or expansion of the turnpike project or
21 system;

22 (2) the acquisition of real property, rights-of-way,
23 property rights, easements, and other interests in real property;

24 (3) machinery and equipment;

25 (4) interest payable before, during, and after
26 acquisition, construction, improvement, extension, or expansion as
27 provided in the bond proceedings;

1 (5) traffic estimates, revenue estimates, engineering
2 and legal services, plans, specifications, surveys, appraisals,
3 construction cost estimates, and other expenses necessary or
4 incidental to determining the feasibility of the acquisition,
5 construction, improvement, extension, or expansion;

6 (6) necessary or incidental administrative, legal,
7 and other expenses;

8 (7) compliance with laws, regulations, and
9 administrative rulings, including any costs associated with
10 necessary environmental mitigation measures;

11 (8) financing;

12 (9) the assumption of debts, obligations, and
13 liabilities of an entity relating to a turnpike project or system
14 transferred to an authority by that entity; ~~and~~

15 (10) expenses related to the initial operation of the
16 turnpike project or system;

17 (11) payment obligations of an authority under a
18 contract or agreement authorized by this chapter in connection with
19 the acquisition, construction, improvement, extension, expansion,
20 or financing of the turnpike project or system; and

21 (12) any other cost and expense for the maintenance,
22 repair, administration, or operation of a turnpike project or
23 system, including all cost and expense for provision of tolling
24 services or financial security under Section 366.038.

25 (b) Costs of ~~attributable to~~ a turnpike project or system
26 ~~and~~ incurred before the issuance of bonds to finance the turnpike
27 project or system may be reimbursed from the proceeds of sale of the

1 bonds.

2 SECTION 5. Subsections (a), (g), and (k), Section 366.033,
3 Transportation Code, are amended to read as follows:

4 (a) An authority, acting through its board, without state
5 approval, supervision, or regulation, may:

6 (1) adopt rules for the regulation of its affairs and
7 the conduct of its business;

8 (2) adopt an official seal;

9 (3) study, evaluate, design, finance, acquire,
10 construct, maintain, repair, and operate turnpike projects,
11 individually or as one or more systems;

12 (4) acquire, hold, and dispose of property in the
13 exercise of its powers and the performance of its duties under this
14 chapter;

15 (5) enter into contracts or operating agreements with
16 similar authorities, other governmental entities, or agencies of
17 the United States, a state of the United States, the United Mexican
18 States, or a state of the United Mexican States;

19 (6) enter into contracts or agreements necessary or
20 incidental to its duties and powers under this chapter;

21 (7) cooperate and work directly with property owners
22 and governmental entities [~~agencies~~] and officials to support an
23 activity required to promote or develop a turnpike project or
24 system;

25 (8) employ and set the compensation and benefits of
26 administrators, consulting engineers, attorneys, accountants,
27 construction and financial experts, superintendents, managers,

1 full-time and part-time employees, agents, consultants, and such
2 other persons as the authority considers necessary or useful;

3 (9) apply for and directly or indirectly receive and
4 spend loans, gifts, grants, and other contributions for the
5 construction of a turnpike project or system, and receive and spend
6 contributions of money, property, labor, or other things of value
7 from any source, including the United States, a state of the United
8 States, the United Mexican States, a state of the United Mexican
9 States, the commission, the department, any subdivision of the
10 state, or any other [~~local~~] governmental or private entity, to be
11 used for the purposes for which the grants or contributions are
12 made, and enter into any agreement necessary for the grants or
13 contributions;

14 (10) install, construct, maintain, repair, renew,
15 relocate, and remove public utility facilities in, on, along, over,
16 or under a turnpike project;

17 (11) organize a corporation under Chapter 431 for the
18 promotion and development of turnpike projects and systems;

19 (12) adopt and enforce rules not inconsistent with
20 this chapter for the use of any turnpike project or system,
21 including:

22 (A) rules relating to enforcement of tolls,
23 fares, or other user fees;

24 (B) speed and weight limit rules; and

25 (C) traffic and other public safety rules;

26 (13) enter into leases, operating agreements, service
27 agreements, licenses, franchises, and similar agreements with

1 public or private parties governing the parties' use of all or any
2 portion of a turnpike project and the rights and obligations of the
3 authority with respect to a turnpike project; and

4 (14) do all things necessary or appropriate to carry
5 out the powers expressly granted by this chapter.

6 (g) An authority and any [~~local~~] governmental entity,
7 including the department, may enter into a contract under which the
8 authority will operate a turnpike project or system on behalf of the
9 [~~local~~] governmental entity. [~~An authority may enter into a~~
10 ~~contract with the department under which the authority will operate~~
11 ~~a turnpike project or system on behalf of the department.~~]

12 (k) If an authority enters into a contract or agreement to
13 design, finance, construct, operate, maintain, or perform any other
14 function for a turnpike project, system, or improvement authorized
15 by law on behalf of a [~~local~~] governmental entity, including the
16 commission, the department, a regional mobility authority, or any
17 other entity, the contract or agreement may provide that the
18 authority, in performing the function, is governed by the
19 applicable provisions of this chapter and the rules and procedures
20 adopted by the authority under this chapter, in lieu of the laws,
21 rules, or procedures applicable to the other party for the
22 performance of the same function.

23 SECTION 6. Section 366.034, Transportation Code, is amended
24 by adding Subsection (c) to read as follows:

25 (c) Notwithstanding Subsection (b), the board may authorize
26 the transfer of revenue from one or more turnpike projects or
27 systems to a general fund of the authority if the transfer does not

1 violate, and is not inconsistent with, any bond proceedings
2 governing the use of the revenue. An authority may use revenue or
3 other money in a general fund for any purpose authorized by this
4 chapter.

5 SECTION 7. Section 366.036, Transportation Code, is amended
6 to read as follows:

7 Sec. 366.036. TRANSFER OF TURNPIKE PROJECT OR SYSTEM.

8 (a) An authority may transfer any of its turnpike projects or
9 systems to one or more [~~local~~] governmental entities if:

10 (1) the authority has commitments from the governing
11 bodies of the [~~local~~] governmental entities to assume jurisdiction
12 over the transferred projects or systems;

13 (2) property and contract rights in the transferred
14 projects or systems and bonds issued for the projects or systems are
15 not affected unfavorably;

16 (3) the transfer is not prohibited under the bond
17 proceedings applicable to the transferred projects or systems;

18 (4) adequate provision has been made for the
19 assumption of all debts, obligations, and liabilities of the
20 authority relating to the transferred projects or systems by the
21 [~~local~~] governmental entities assuming jurisdiction over the
22 transferred projects or systems;

23 (5) the [~~local~~] governmental entities are authorized
24 to assume jurisdiction over the transferred projects or systems and
25 to assume the debts, obligations, and liabilities of the authority
26 relating to the transferred projects or systems; and

27 (6) the transfer has been approved by the

1 commissioners court of each county that is part of the authority.

2 (b) An authority may transfer to one or more [~~local~~]
3 governmental entities any traffic estimates, revenue estimates,
4 plans, specifications, surveys, appraisals, and other work product
5 developed by the authority in determining the feasibility of the
6 acquisition, construction, improvement, extension, or expansion of
7 a turnpike project or system, and the authority's rights and
8 obligations under any related agreements, if the requirements of
9 Subsections (a)(1) and (6) are met.

10 (c) A [~~local~~] governmental entity shall, using any lawfully
11 available funds, reimburse any expenditures made by an authority
12 from its feasibility study fund or otherwise to pay the costs of
13 work product transferred to the [~~local~~] governmental entity under
14 Subsection (b) and any other amounts expended under related
15 agreements transferred to the [~~local~~] governmental entity. The
16 reimbursement may be made over time, as determined by the [~~local~~]
17 governmental entity and the authority.

18 SECTION 8. Subsections (a), (c), and (f), Section 366.037,
19 Transportation Code, are amended to read as follows:

20 (a) In addition to the powers granted under this chapter and
21 without supervision or regulation by any state agency or other
22 [~~local~~] governmental entity, but subject to an agreement entered
23 into under Subsection (c), the board of an authority may by
24 resolution, and on making the findings set forth in this
25 subsection, authorize the use of surplus revenue of a turnpike
26 project or system for the study, design, construction, maintenance,
27 repair, and operation of a highway or similar facility that is not a

1 turnpike project if the highway or similar facility is:

2 (1) situated in a county in which the authority is
3 authorized to design, construct, and operate a turnpike project;

4 (2) anticipated to either:

5 (A) enhance the operation or revenue of an
6 existing, or the feasibility of a proposed, turnpike project by
7 bringing traffic to that turnpike project or enhancing the flow of
8 traffic either on that turnpike project or to or from that turnpike
9 project to another facility; or

10 (B) ameliorate the impact of an existing or
11 proposed turnpike project by enhancing the capability of another
12 facility to handle traffic traveling, or anticipated to travel, to
13 or from that turnpike project; and

14 (3) not anticipated to result in an overall reduction
15 of revenue of any turnpike project or system.

16 (c) An authority shall enter into an agreement to implement
17 this section with the department, the commission, or another [~~a~~
18 ~~local~~] governmental entity [~~, or another political subdivision~~]
19 that owns a street, road, alley, or highway that is directly
20 affected by the authority's turnpike project or related facility.

21 (f) Except as provided by this section, an authority has the
22 same powers and may use the same procedures with respect to the
23 study, financing, design, acquisition, construction, maintenance,
24 repair, and operation of a highway or similar facility under this
25 section as are available to the authority with respect to a turnpike
26 project or system.

27 SECTION 9. Section 366.038, Transportation Code, is amended

1 by amending Subsection (c) and adding Subsection (c-1) to read as
2 follows:

3 (c) An authority may [~~not~~] provide financial security,
4 including a cash collateral account, letter of credit, surety bond,
5 or other credit agreement, for the performance of tolling services
6 the authority provides under this section, regardless of when an
7 agreement to provide such services was entered into, unless [if]:

8 (1) the authority determines that providing security
9 could restrict the amount, or increase the cost, of bonds or other
10 debt obligations the authority may subsequently issue under this
11 chapter; or

12 (2) the authority is not reimbursed its cost of
13 providing the security.

14 (c-1) Financial security provided and any related agreement
15 entered into by an authority under this section does not require the
16 approval of the attorney general under Section 366.116 or any other
17 law.

18 SECTION 10. Subsection (a), Section 366.071,
19 Transportation Code, is amended to read as follows:

20 (a) An authority may pay the expenses of studying the cost
21 and feasibility of a proposed turnpike project or system, the
22 expenses of designing and engineering a proposed turnpike project
23 or system, and any other expenses relating to the preparation and
24 issuance of bonds for a proposed turnpike project or system by:

25 (1) using legally available revenue derived from an
26 existing turnpike project or system;

27 (2) borrowing money and issuing bonds or entering into

1 a loan agreement payable out of legally available revenue
2 anticipated to be derived from the operation of an existing
3 turnpike project or system; or

4 (3) pledging to the payment of the bonds or loan
5 agreements;

6 (A) legally available revenue anticipated to be
7 derived from the operation of an existing turnpike project or
8 system;

9 (B) proceeds from the sale of other bonds; or

10 (C) revenue legally available to the authority
11 from another source.

12 SECTION 11. Subsection (c), Section 366.072,
13 Transportation Code, is amended to read as follows:

14 (c) Money in the feasibility study fund may be used only to
15 pay:

16 (1) the expenses of:

17 (A) studying the cost and feasibility of a
18 proposed turnpike project or system; or

19 (B) designing and engineering a proposed
20 turnpike project or system; or

21 (2) ~~and~~ any other expenses relating to:

22 (A) ~~(1)~~ the preparation and issuance of bonds
23 for, or the financing of:

24 (i) the acquisition and construction of a
25 proposed turnpike project or system; or

26 (ii) ~~+~~

27 ~~(2) the financing of~~ the improvement, extension, or

1 expansion of an existing turnpike project or system; or ~~and~~
2 (B) ~~(3)~~ private participation, as authorized
3 by law, in:

4 (i) the financing of a proposed turnpike
5 project or system;

6 (ii) ~~(7)~~ the refinancing of an existing
7 turnpike project or system; ~~(7)~~ or

8 (iii) the financing of an improvement,
9 extension, or expansion of a turnpike project or system.

10 SECTION 12. The heading to Section 366.073, Transportation
11 Code, is amended to read as follows:

12 Sec. 366.073. FEASIBILITY STUDY BY MUNICIPALITY, COUNTY,
13 OTHER ~~LOCAL~~ GOVERNMENTAL ENTITY, OR PRIVATE GROUP.

14 SECTION 13. Subsection (a), Section 366.073,
15 Transportation Code, is amended to read as follows:

16 (a) One or more municipalities, counties, or ~~local~~
17 governmental entities, a combination of municipalities, counties,
18 and ~~local~~ governmental entities, or a private group or
19 combination of individuals ~~[in this state]~~ may pay all or part of
20 the expenses of studying the cost and feasibility of a proposed
21 turnpike project or system and any other expenses relating to:

22 (1) the preparation and issuance of bonds for, or the
23 financing of:

24 (A) the acquisition and construction of a
25 proposed turnpike project or system by an authority; or

26 (B) ~~(2)~~ the improvement, extension, or
27 expansion of an authority's existing turnpike project or system; or

1 (2) [~~(3)~~] the use of private participation under
2 applicable law in connection with the acquisition, construction,
3 improvement, expansion, extension, maintenance, repair, or
4 operation of a turnpike project or system by an authority.

5 SECTION 14. Section 366.111, Transportation Code, is
6 amended by amending Subsection (a) and adding Subsection (i) to
7 read as follows:

8 (a) An authority, by adoption of a bond resolution, may
9 authorize the issuance of bonds to pay all or part of the cost of a
10 turnpike project or system, to refund any bonds previously issued
11 for the turnpike project or system, or to pay for all or part of the
12 cost of a turnpike project or system that is or will become a part of
13 another system.

14 (i) Bonds issued under this chapter shall be considered
15 authorized investments under Chapter 2256, Government Code, for
16 this state, any governmental entity, and any other public entity
17 proposing to invest in the bonds.

18 SECTION 15. Subsections (a) and (b), Section 366.113,
19 Transportation Code, are amended to read as follows:

20 (a) The principal of, interest on, and any redemption
21 premium on bonds issued by an authority are payable solely from:

22 (1) the revenue of the turnpike project or system for
23 which the bonds are issued, including tolls pledged to pay the
24 bonds;

25 (2) payments made under an agreement with the
26 commission or a [~~local~~] governmental entity as authorized
27 [~~provided~~] by this chapter [~~Subchapter C~~];

1 (3) revenue [~~money derived from any other source~~
2 ~~available to the authority, other than money derived~~] from a
3 turnpike project that is not part of the same system or [~~money~~
4 ~~derived~~] from a different system[~~, except to the extent~~] that [~~the~~
5 ~~surplus revenue of a turnpike project or system~~] has been pledged
6 for that purpose under Section 366.175; [~~and~~]

7 (4) amounts received under a credit agreement relating
8 to the turnpike project or system for which the bonds are issued;

9 (5) revenue or other money in a general fund of an
10 authority;

11 (6) proceeds of the sale of other bonds; and

12 (7) revenue or other money derived from any other
13 source available to the authority.

14 (b) Bonds issued under this chapter do not constitute a debt
15 of the state, a governmental entity, or any of the counties of an
16 authority or a pledge of the faith and credit of the state, a
17 governmental entity, or any of the counties. Each bond must contain
18 on its face a statement to the effect that the state, the authority,
19 [~~and~~] the counties of the authority, and any other governmental
20 entity are not obligated to pay the bond or the interest on the bond
21 from a source other than the amount pledged to pay the bond and the
22 interest on the bond, and [~~neither~~] the faith and credit and taxing
23 power of neither the state, any governmental entity, or the
24 counties of the authority are pledged to the payment of the
25 principal of or interest on the bond. This subsection does not
26 apply to a governmental entity that has issued bonds or entered into
27 an agreement under Subchapter G.

1 SECTION 16. Subsection (a), Section 366.114,
2 Transportation Code, is amended to read as follows:

3 (a) A lien on or a pledge of revenue from a turnpike project
4 or system under this chapter, a lien on or a pledge of revenue from
5 ~~[or on]~~ a reserve, replacement, or other fund established in
6 connection with a bond issued under this chapter, or a lien on or a
7 pledge of revenue from a contract or agreement entered into under
8 this chapter:

9 (1) is enforceable at the time of payment for and
10 delivery of the bond or on the effective date of the contract or
11 agreement;

12 (2) applies to an item on hand or subsequently
13 received;

14 (3) applies without physical delivery of an item or
15 other act; and

16 (4) is enforceable against any person having any
17 claim, in tort, contract, or other remedy, against the applicable
18 authority without regard to whether the person has notice of the
19 lien or pledge.

20 SECTION 17. Subsection (a), Section 366.117,
21 Transportation Code, is amended to read as follows:

22 (a) A bank or trust company incorporated under the laws of
23 this state or that maintains an office in this state that acts as
24 depository of the proceeds of bonds or of revenue may furnish
25 indemnifying bonds or pledge securities that an authority requires.

26 SECTION 18. Section 366.118, Transportation Code, is
27 amended to read as follows:

1 Sec. 366.118. APPLICABILITY OF OTHER LAW; CONFLICTS. All
2 laws affecting the issuance of bonds by [~~local~~] governmental
3 entities, including Chapters 1201, 1202, 1204, and 1371, Government
4 Code, apply to bonds issued under this chapter. To the extent of a
5 conflict between those laws and this chapter, the provisions of
6 this chapter prevail.

7 SECTION 19. Subsection (a), Section 366.162,
8 Transportation Code, is amended to read as follows:

9 (a) An authority may construct or improve a turnpike project
10 on real property, including a right-of-way acquired by the
11 authority or provided to the authority for that purpose by the
12 commission, a political subdivision of this state, or any other
13 [~~local~~] governmental entity.

14 SECTION 20. Subchapter E, Chapter 366, Transportation Code,
15 is amended by adding Section 366.1631 to read as follows:

16 Sec. 366.1631. PARTICIPATION PAYMENT FOR REAL PROPERTY.

17 (a) As an alternative to paying for an interest in real property or
18 a real property right with a single fixed payment, an authority may,
19 with the property owner's consent, pay the owner by means of a
20 participation payment.

21 (b) A right to receive a participation payment under this
22 section is subordinate to any right to receive a fee as payment on
23 the principal of or interest on a bond that is issued for the
24 construction of the applicable segment.

25 (c) In this section, "participation payment" means an
26 intangible legal right to receive a percentage of one or more
27 identified fees related to a segment constructed by the authority.

1 SECTION 21. Subsection (b), Section 366.168,
2 Transportation Code, is amended to read as follows:

3 (b) At its option, an authority may negotiate for and
4 purchase the severed real property or any part of the severed real
5 property if the authority and the property owner agree on terms for
6 the purchase. Notwithstanding Section 272.001, Local Government
7 Code, an [An] authority may, by any commercially available method,
8 sell and dispose of severed real property that it determines is not
9 necessary or useful to the authority. Severed property must be
10 appraised before being offered for sale by an authority.

11 SECTION 22. Subsections (a), (b), and (c), Section 366.169,
12 Transportation Code, are amended to read as follows:

13 (a) An authority may use real property, including submerged
14 land, streets, alleys, and easements, owned by the state or another
15 [a—local] governmental entity that the authority considers
16 necessary for the construction or operation of a turnpike project.

17 (b) The state or another [a—local] governmental entity
18 having charge of public real property may consent to the use of the
19 property for a turnpike project.

20 (c) Except as provided by Section 228.201, the state or
21 another [a—local] governmental entity may convey, grant, or lease
22 to an authority real property, including highways and other real
23 property already devoted to public use and rights or easements in
24 real property, that may be necessary or convenient to accomplish
25 the authority's purposes, including the construction or operation
26 of a turnpike project. A conveyance, grant, or lease under this
27 section may be made without advertising, court order, or other

1 action other than the normal action of the state or another [~~local~~]
2 governmental entity necessary for a conveyance, grant, or lease.

3 SECTION 23. Subsection (c), Section 366.170,
4 Transportation Code, is amended to read as follows:

5 (c) An authority has full easements and rights-of-way
6 through, across, under, and over any property owned by the state or
7 another [~~any local~~] governmental entity that are necessary or
8 convenient to construct, acquire, or efficiently operate a turnpike
9 project or system under this chapter. This subsection does not
10 affect the obligation of the authority under other state law,
11 including Section 373.102, to compensate or reimburse the state for
12 the use or acquisition of an easement or right-of-way on property
13 owned by or on behalf of the state. An authority's use of property
14 owned by or on behalf of the state is subject to any covenants,
15 conditions, restrictions, or limitations affecting that property.

16 SECTION 24. Section 366.173, Transportation Code, is
17 amended by amending Subsections (b), (c), and (d) and adding
18 Subsection (h) to read as follows:

19 (b) Tolls must be set so that the aggregate of tolls from an
20 authority's turnpike project or system, together with other revenue
21 of the turnpike project or system:

22 (1) provides revenue sufficient to pay:

23 (A) the cost of maintaining, repairing, and
24 operating the turnpike project or system; [~~and~~]

25 (B) the principal of and interest on the bonds
26 issued for the turnpike project or system as those bonds become due
27 and payable; and

1 (C) any other payment obligations of the
2 authority under a contract or agreement authorized under this
3 chapter; and

4 (2) creates reserves for a purpose listed under
5 Subdivision (1).

6 (c) Tolls are not subject to supervision or regulation by
7 any state agency or other [~~local~~] governmental entity.

8 (d) Tolls and other revenue derived from a turnpike project
9 or system for which bonds are issued, except the part necessary to
10 pay the cost of maintenance, repair, and operation and to provide
11 reserves for those costs as may be provided in the bond proceedings,
12 shall be set aside at regular intervals as may be provided in the
13 bond resolution or trust agreement in a sinking fund that is pledged
14 to and charged with the payment of:

15 (1) interest on the bonds as it becomes due;

16 (2) principal of the bonds as it becomes due;

17 (3) necessary charges of paying agents for paying
18 principal and interest; [~~and~~]

19 (4) the redemption price or the purchase price of
20 bonds retired by call or purchase as provided by the bond
21 proceedings; and

22 (5) any amounts due under credit agreements.

23 (h) Notwithstanding any other provision of this chapter, an
24 authority may pledge all or any part of its revenue and any other
25 funds available to the authority to the payment of any obligations
26 of the authority under a contract or agreement authorized by this
27 chapter.

1 SECTION 25. Section 366.175, Transportation Code, is
2 amended to read as follows:

3 Sec. 366.175. USE OF [~~SURPLUS~~] REVENUE. The board of an
4 authority may by resolution authorize the use of [~~surplus~~] revenue
5 of a turnpike project or system to pay the costs of another turnpike
6 project or system [~~other than a project financed under Subchapter~~
7 ~~G~~]. The board may in the resolution prescribe terms for the use of
8 the revenue, including the pledge of the revenue, but may not take
9 an action under this section that violates, impairs, or is
10 inconsistent with a bond resolution, trust agreement, or indenture
11 governing the use of the [~~surplus~~] revenue.

12 SECTION 26. Subsection (b), Section 366.176,
13 Transportation Code, is amended to read as follows:

14 (b) An authority is exempt from payment of development fees,
15 utility connection fees, assessments, and service fees imposed or
16 assessed by a county, municipality, road and utility district,
17 river authority, any other [~~state or local~~] governmental entity, or
18 any property owners' or homeowners' association.

19 SECTION 27. Subsection (c), Section 366.182,
20 Transportation Code, is amended to read as follows:

21 (c) An authority may contract with any [~~state or local~~]
22 governmental entity for the services of peace officers of that
23 entity [~~agency~~].

24 SECTION 28. Subsections (j) and (k), Section 366.251,
25 Transportation Code, are amended to read as follows:

26 (j) The board of an authority shall select one director as
27 the presiding officer of the board to serve in that capacity until

1 the person is no longer [~~person's term as~~] a director or the board
2 selects another director as the presiding officer [~~expires~~]. The
3 board shall elect one director as assistant presiding officer. The
4 board shall select a secretary and treasurer, neither of whom need
5 be a director.

6 (k) If a vacancy exists on a board, the majority of
7 directors serving on the board is a quorum. The vote of a majority
8 attending a board meeting is necessary for any action taken by the
9 board, provided that the directors of an authority may adopt rules
10 requiring a vote of greater than a majority of directors attending a
11 board meeting to approve:

12 (1) transferring all or substantially all of the
13 authority's assets or a material portion of a turnpike project or
14 system;

15 (2) assuming another entity's debts, obligations, or
16 liabilities;

17 (3) undertaking a turnpike project that is not
18 expected to satisfy financial criteria within a time as provided by
19 a rule adopted by the board;

20 (4) the inclusion of a county in the authority under
21 Section 366.031(d);

22 (5) the authority's cessation of operations,
23 abolishment, or reconstitution as an entity different from a
24 regional tollway authority;

25 (6) removing a director; or

26 (7) amending a rule adopted under Subdivision (1),
27 (2), (3), (4), (5), or (6). [~~If a vacancy exists on a board, the~~

1 ~~majority of directors serving on the board is a quorum.]~~

2 SECTION 29. Section 366.302, Transportation Code, is
3 amended by amending Subsections (a), (b), (c), and (d) and adding
4 Subsection (h) to read as follows:

5 (a) An authority may enter into an agreement with one or
6 more [a] public or private entities [~~entity~~], including a toll road
7 corporation, the United States, a state of the United States, the
8 United Mexican States, a state of the United Mexican States, or a
9 [~~local~~] governmental entity, [~~or another political subdivision,~~]
10 to permit the entity, jointly with the authority, to study the
11 feasibility of a turnpike project or system or to acquire, design,
12 finance, construct, maintain, repair, operate, extend, or expand a
13 turnpike project or system. An authority and a private entity
14 jointly may enter into an agreement with another governmental
15 entity to study the feasibility of a turnpike project or system or
16 to acquire, design, finance, construct, maintain, repair, operate,
17 extend, or expand a turnpike project or system.

18 (b) An authority has broad discretion to negotiate
19 provisions in a development agreement with a private entity. The
20 provisions may include provisions relating to:

21 (1) the design, financing, acquisition, construction,
22 maintenance, and operation of a turnpike project or system in
23 accordance with standards adopted by the authority; and

24 (2) professional and consulting services to be
25 rendered under standards adopted by the authority in connection
26 with a turnpike project or system.

27 (c) An authority may not incur a financial obligation on

1 behalf of, or otherwise guarantee the obligations of, a private
2 entity that acquires, constructs, maintains, or operates a turnpike
3 project or system.

4 (d) An authority or a county in an authority is not liable
5 for any financial or other obligation of a turnpike project or
6 system solely because a private entity acquires, constructs,
7 finances, or operates any part of a turnpike project or system.

8 (h) For purposes of this section, "turnpike project"
9 includes a toll project, as defined by Section 372.001, of another
10 entity regardless of whether the authority will ever own or operate
11 the project.

12 SECTION 30. Section 366.303, Transportation Code, is
13 amended to read as follows:

14 Sec. 366.303. AGREEMENTS BETWEEN AUTHORITY AND [~~LOCAL~~]
15 GOVERNMENTAL ENTITIES. (a) A [~~local~~] governmental entity [~~other~~
16 ~~than a nonprofit corporation~~] may, consistent with the Texas
17 Constitution, issue bonds or enter into and make payments under
18 agreements with an authority to acquire, construct, maintain, or
19 operate a turnpike project or system, whether inside or outside the
20 geographic boundaries of the governmental entity.

21 (a-1) Agreements under Subsection (a) may:

22 (1) include agreements for the governmental entity to
23 pay the principal of, and interest on, bonds, notes, or other
24 obligations issued by the authority; and

25 (2) make payments under any related credit agreements.

26 (a-2) The governmental entity may levy and collect taxes to
27 pay the interest on [~~the~~] bonds issued under Subsection (a) and to

1 provide a sinking fund for the redemption of the bonds.

2 (b) In addition to the powers provided by Subsection (a), a
3 ~~[local]~~ governmental entity may, within any applicable
4 constitutional limitations, agree with an authority to:

5 (1) issue bonds or enter into and make payments under
6 an agreement to acquire, construct, maintain, or operate any
7 portion of a turnpike project or system of that authority;

8 (2) create:

9 (A) a taxing district;

10 (B) a transportation reinvestment zone under
11 Subchapter E, Chapter 222; or

12 (C) an entity to promote economic development;
13 and

14 (3) collect and remit to an authority taxes, fees, or
15 assessments collected for purposes of developing turnpike projects
16 or systems.

17 (b-1) An agreement under Subsection (b) may include a means
18 for a governmental entity to pledge or otherwise provide funds for a
19 transportation project that benefits the governmental entity to be
20 developed by the authority.

21 (c) To make payments under an agreement under Subsection
22 (b), to pay the interest on bonds issued under Subsection (b), or to
23 provide a sinking fund for the bonds or the agreement ~~[contract]~~, a
24 ~~[local]~~ governmental entity may:

25 (1) pledge revenue from any available source,
26 including annual appropriations;

27 (2) levy and collect taxes;

1 (3) use funds deposited in a tax increment account
2 established for a transportation reinvestment zone under
3 Subchapter E, Chapter 222; or

4 (4) [~~3~~] provide for a combination of Subdivisions
5 (1), ~~[and]~~ (2), and (3).

6 (d) The term of an agreement under this section may not
7 exceed 40 years.

8 (e) Any election required to permit action under this
9 subchapter must be held in conformity with Chapter 1251, Government
10 Code, or other law applicable to the [~~local~~] governmental entity.

11 (f) The governing body of any governmental entity issuing
12 bonds, notes, or other obligations or entering into agreements
13 under this section may exercise the authority granted to the
14 governing body of an issuer with regard to issuance of obligations
15 under Chapter 1371, Government Code, except that the prohibition in
16 that chapter on the repayment of an obligation with ad valorem taxes
17 does not apply to an issuer exercising the authority granted by this
18 section.

19 (g) An agreement under this section may contain repayment or
20 reimbursement obligations of an authority.

21 SECTION 31. Subsections (f) and (g), Section 366.407,
22 Transportation Code, are amended to read as follows:

23 (f) If an authority enters into a comprehensive development
24 agreement with a private participant that includes the collection
25 by the private participant of tolls for the use of a turnpike
26 project or system [~~toll project~~], the private participant shall
27 submit to the authority for approval:

- 1 (1) the methodology for:
- 2 (A) the setting of tolls; and
- 3 (B) increasing the amount of the tolls;
- 4 (2) a plan outlining methods the private participant
- 5 will use to collect the tolls, including:
- 6 (A) any charge to be imposed as a penalty for late
- 7 payment of a toll; and
- 8 (B) any charge to be imposed to recover the cost
- 9 of collecting a delinquent toll; and
- 10 (3) any proposed change in an approved methodology for
- 11 the setting of a toll or a plan for collecting the toll.

12 (g) Except as provided by this subsection, a comprehensive

13 development agreement with a private participant that includes the

14 collection by the private participant of tolls for the use of a

15 turnpike project or system [~~toll project~~] may be for a term not

16 longer than 50 years from the later of the date of final acceptance

17 of the project or system or the start of revenue operations by the

18 private participant, not to exceed a total term of 52 years. The

19 contract must contain an explicit mechanism for setting the price

20 for the purchase by the authority of the interest of the private

21 participant in the contract and related property, including any

22 interest in a highway or other facility designed, developed,

23 financed, constructed, operated, or maintained under the contract.

24 SECTION 32. Subsection (a), Section 366.409,

25 Transportation Code, is amended to read as follows:

26 (a) Payments received by an authority under a comprehensive

27 development agreement shall be used by the authority to finance the

S.B. No. 1018

1 acquisition, construction, maintenance, or operation of a turnpike
2 project or a highway.

3 SECTION 33. This Act takes effect September 1, 2013.