

1-1 By: Carona S.B. No. 1018
 1-2 (In the Senate - Filed March 4, 2013; March 12, 2013, read
 1-3 first time and referred to Committee on Transportation;
 1-4 April 15, 2013, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 6, Nays 0, 1 present not
 1-6 voting; April 15, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12				X
1-13	X			
1-14			X	
1-15			X	
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1018 By: Paxton

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the agreements, costs, revenues, and finances of
 1-22 regional tollway authorities; authorizing taxes, fees, and
 1-23 assessments.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Subsection (d), Section 222.108, Transportation
 1-26 Code, is amended to read as follows:

1-27 (d) In this section, "transportation project" has the
 1-28 meaning assigned by Section 370.003 and includes a turnpike project
 1-29 and a system under Section 366.003.

1-30 SECTION 2. Subsection (e), Section 222.110, Transportation
 1-31 Code, is amended to read as follows:

1-32 (e) The sales and use taxes to be deposited into the tax
 1-33 increment account under this section may be disbursed from the
 1-34 account only to:

1-35 (1) pay for the transportation project for which the
 1-36 transportation reinvestment zone was designated, and for aesthetic
 1-37 improvements within the zone [projects authorized under Section
 1-38 222.104], including the repayment of amounts owed under a contract
 1-39 [an agreement] entered into under Section 222.106 or 222.107, as
 1-40 applicable [that section]; and

1-41 (2) notwithstanding Sections 321.506 and 323.505, Tax
 1-42 Code, satisfy claims of holders of tax increment bonds, notes, or
 1-43 other obligations issued or incurred for a transportation project
 1-44 for which the zone was designated [projects authorized under
 1-45 Section 222.104].

1-46 SECTION 3. Subdivisions (8), (9), and (11), Section
 1-47 366.003, Transportation Code, are amended to read as follows:

1-48 (8) "Governmental [Local governmental] entity" means
 1-49 a political subdivision of the state, including a municipality or a
 1-50 county, a political subdivision of a county, a group of adjoining
 1-51 counties, a district organized or operating under Section 52,
 1-52 Article III, or Section 59, Article XVI, Texas Constitution, the
 1-53 department, another state agency, [or] a nonprofit corporation,
 1-54 including a transportation corporation created under Chapter 431,
 1-55 or any other public entity or instrumentality.

1-56 (9) "Revenue" means the tolls, rents, and other money
 1-57 received by an authority:

1-58 (A) from the ownership or operation of a turnpike
 1-59 project; or

1-60 (B) under an agreement under Section 366.302 or

2-1 366.303.
 2-2 (11) "Turnpike project" means a highway of any number
 2-3 of lanes, with or without grade separations, owned or operated
 2-4 wholly or partly by an authority under this chapter and any
 2-5 improvement, extension, or expansion to that highway, including:
 2-6 (A) an improvement to relieve traffic congestion
 2-7 and promote safety;
 2-8 (B) a bridge, tunnel, overpass, underpass,
 2-9 interchange, service road, ramp, entrance plaza, approach, or
 2-10 tollhouse;
 2-11 (C) an administration, storage, or other
 2-12 building the authority considers necessary to operate the turnpike
 2-13 project;
 2-14 (D) a parking area or structure, rest stop, park,
 2-15 and other improvement or amenity the authority considers necessary,
 2-16 useful, or beneficial for the operation of a turnpike project;
 2-17 ~~[and]~~
 2-18 (E) property rights, easements, and interests
 2-19 the authority acquires to construct or operate the turnpike
 2-20 project; and
 2-21 (F) improvements in a transportation
 2-22 reinvestment zone designated under Subchapter E, Chapter 222.

2-23 SECTION 4. Section 366.004, Transportation Code, is amended
 2-24 to read as follows:

2-25 Sec. 366.004. ~~[CONSTRUCTION]~~ COSTS OF TURNPIKE DEFINED.

2-26 (a) The cost of ~~[acquisition, construction, improvement,~~
 2-27 ~~extension, or expansion of]~~ a turnpike project or system under this
 2-28 chapter includes the cost of:

2-29 (1) the actual acquisition, construction,
 2-30 improvement, extension, or expansion of the turnpike project or
 2-31 system;

2-32 (2) the acquisition of real property, rights-of-way,
 2-33 property rights, easements, and other interests in real property;

2-34 (3) machinery and equipment;

2-35 (4) interest payable before, during, and after
 2-36 acquisition, construction, improvement, extension, or expansion as
 2-37 provided in the bond proceedings;

2-38 (5) traffic estimates, revenue estimates, engineering
 2-39 and legal services, plans, specifications, surveys, appraisals,
 2-40 construction cost estimates, and other expenses necessary or
 2-41 incidental to determining the feasibility of the acquisition,
 2-42 construction, improvement, extension, or expansion;

2-43 (6) necessary or incidental administrative, legal,
 2-44 and other expenses;

2-45 (7) compliance with laws, regulations, and
 2-46 administrative rulings, including any costs associated with
 2-47 necessary environmental mitigation measures;

2-48 (8) financing;

2-49 (9) the assumption of debts, obligations, and
 2-50 liabilities of an entity relating to a turnpike project or system
 2-51 transferred to an authority by that entity; ~~[and]~~

2-52 (10) expenses related to the initial operation of the
 2-53 turnpike project or system;

2-54 (11) payment obligations of an authority under a
 2-55 contract or agreement authorized by this chapter in connection with
 2-56 the acquisition, construction, improvement, extension, expansion,
 2-57 or financing of the turnpike project or system; and

2-58 (12) any other cost and expense for the maintenance,
 2-59 repair, administration, or operation of a turnpike project or
 2-60 system, including all cost and expense for provision of tolling
 2-61 services or financial security under Section 366.038.

2-62 (b) Costs of ~~[attributable to]~~ a turnpike project or system
 2-63 ~~[and]~~ incurred before the issuance of bonds to finance the turnpike
 2-64 project or system may be reimbursed from the proceeds of sale of the
 2-65 bonds.

2-66 SECTION 5. Subsections (a), (g), and (k), Section 366.033,
 2-67 Transportation Code, are amended to read as follows:

2-68 (a) An authority, acting through its board, without state
 2-69 approval, supervision, or regulation, may:

- 3-1 (1) adopt rules for the regulation of its affairs and
3-2 the conduct of its business;
- 3-3 (2) adopt an official seal;
- 3-4 (3) study, evaluate, design, finance, acquire,
3-5 construct, maintain, repair, and operate turnpike projects,
3-6 individually or as one or more systems;
- 3-7 (4) acquire, hold, and dispose of property in the
3-8 exercise of its powers and the performance of its duties under this
3-9 chapter;
- 3-10 (5) enter into contracts or operating agreements with
3-11 similar authorities, other governmental entities, or agencies of
3-12 the United States, a state of the United States, the United Mexican
3-13 States, or a state of the United Mexican States;
- 3-14 (6) enter into contracts or agreements necessary or
3-15 incidental to its duties and powers under this chapter;
- 3-16 (7) cooperate and work directly with property owners
3-17 and governmental entities [~~agencies~~] and officials to support an
3-18 activity required to promote or develop a turnpike project or
3-19 system;
- 3-20 (8) employ and set the compensation and benefits of
3-21 administrators, consulting engineers, attorneys, accountants,
3-22 construction and financial experts, superintendents, managers,
3-23 full-time and part-time employees, agents, consultants, and such
3-24 other persons as the authority considers necessary or useful;
- 3-25 (9) apply for and directly or indirectly receive and
3-26 spend loans, gifts, grants, and other contributions for the
3-27 construction of a turnpike project or system, and receive and spend
3-28 contributions of money, property, labor, or other things of value
3-29 from any source, including the United States, a state of the United
3-30 States, the United Mexican States, a state of the United Mexican
3-31 States, the commission, the department, any subdivision of the
3-32 state, or any other [~~local~~] governmental or private entity, to be
3-33 used for the purposes for which the grants or contributions are
3-34 made, and enter into any agreement necessary for the grants or
3-35 contributions;
- 3-36 (10) install, construct, maintain, repair, renew,
3-37 relocate, and remove public utility facilities in, on, along, over,
3-38 or under a turnpike project;
- 3-39 (11) organize a corporation under Chapter 431 for the
3-40 promotion and development of turnpike projects and systems;
- 3-41 (12) adopt and enforce rules not inconsistent with
3-42 this chapter for the use of any turnpike project or system,
3-43 including:
- 3-44 (A) rules relating to enforcement of tolls,
3-45 fares, or other user fees;
- 3-46 (B) speed and weight limit rules; and
- 3-47 (C) traffic and other public safety rules;
- 3-48 (13) enter into leases, operating agreements, service
3-49 agreements, licenses, franchises, and similar agreements with
3-50 public or private parties governing the parties' use of all or any
3-51 portion of a turnpike project and the rights and obligations of the
3-52 authority with respect to a turnpike project; and
- 3-53 (14) do all things necessary or appropriate to carry
3-54 out the powers expressly granted by this chapter.
- 3-55 (g) An authority and any [~~local~~] governmental entity,
3-56 including the department, may enter into a contract under which the
3-57 authority will operate a turnpike project or system on behalf of the
3-58 [~~local~~] governmental entity. [~~An authority may enter into a~~
3-59 ~~contract with the department under which the authority will operate~~
3-60 ~~a turnpike project or system on behalf of the department.~~]
- 3-61 (k) If an authority enters into a contract or agreement to
3-62 design, finance, construct, operate, maintain, or perform any other
3-63 function for a turnpike project, system, or improvement authorized
3-64 by law on behalf of a [~~local~~] governmental entity, including the
3-65 commission, the department, a regional mobility authority, or any
3-66 other entity, the contract or agreement may provide that the
3-67 authority, in performing the function, is governed by the
3-68 applicable provisions of this chapter and the rules and procedures
3-69 adopted by the authority under this chapter, in lieu of the laws,

4-1 rules, or procedures applicable to the other party for the
4-2 performance of the same function.

4-3 SECTION 6. Section 366.034, Transportation Code, is amended
4-4 by adding Subsection (c) to read as follows:

4-5 (c) Notwithstanding Subsection (b), the board may authorize
4-6 the transfer of revenue from one or more turnpike projects or
4-7 systems to a general fund of the authority if the transfer does not
4-8 violate, and is not inconsistent with, any bond proceedings
4-9 governing the use of the revenue. An authority may use revenue or
4-10 other money in a general fund for any purpose authorized by this
4-11 chapter.

4-12 SECTION 7. Section 366.036, Transportation Code, is amended
4-13 to read as follows:

4-14 Sec. 366.036. TRANSFER OF TURNPIKE PROJECT OR SYSTEM.

4-15 (a) An authority may transfer any of its turnpike projects or
4-16 systems to one or more ~~[local]~~ governmental entities if:

4-17 (1) the authority has commitments from the governing
4-18 bodies of the ~~[local]~~ governmental entities to assume jurisdiction
4-19 over the transferred projects or systems;

4-20 (2) property and contract rights in the transferred
4-21 projects or systems and bonds issued for the projects or systems are
4-22 not affected unfavorably;

4-23 (3) the transfer is not prohibited under the bond
4-24 proceedings applicable to the transferred projects or systems;

4-25 (4) adequate provision has been made for the
4-26 assumption of all debts, obligations, and liabilities of the
4-27 authority relating to the transferred projects or systems by the
4-28 ~~[local]~~ governmental entities assuming jurisdiction over the
4-29 transferred projects or systems;

4-30 (5) the ~~[local]~~ governmental entities are authorized
4-31 to assume jurisdiction over the transferred projects or systems and
4-32 to assume the debts, obligations, and liabilities of the authority
4-33 relating to the transferred projects or systems; and

4-34 (6) the transfer has been approved by the
4-35 commissioners court of each county that is part of the authority.

4-36 (b) An authority may transfer to one or more ~~[local]~~
4-37 governmental entities any traffic estimates, revenue estimates,
4-38 plans, specifications, surveys, appraisals, and other work product
4-39 developed by the authority in determining the feasibility of the
4-40 acquisition, construction, improvement, extension, or expansion of
4-41 a turnpike project or system, and the authority's rights and
4-42 obligations under any related agreements, if the requirements of
4-43 Subsections (a)(1) and (6) are met.

4-44 (c) A ~~[local]~~ governmental entity shall, using any lawfully
4-45 available funds, reimburse any expenditures made by an authority
4-46 from its feasibility study fund or otherwise to pay the costs of
4-47 work product transferred to the ~~[local]~~ governmental entity under
4-48 Subsection (b) and any other amounts expended under related
4-49 agreements transferred to the ~~[local]~~ governmental entity. The
4-50 reimbursement may be made over time, as determined by the ~~[local]~~
4-51 governmental entity and the authority.

4-52 SECTION 8. Subsections (a), (c), and (f), Section 366.037,
4-53 Transportation Code, are amended to read as follows:

4-54 (a) In addition to the powers granted under this chapter and
4-55 without supervision or regulation by any state agency or other
4-56 ~~[local]~~ governmental entity, but subject to an agreement entered
4-57 into under Subsection (c), the board of an authority may by
4-58 resolution, and on making the findings set forth in this
4-59 subsection, authorize the use of surplus revenue of a turnpike
4-60 project or system for the study, design, construction, maintenance,
4-61 repair, and operation of a highway or similar facility that is not a
4-62 turnpike project if the highway or similar facility is:

4-63 (1) situated in a county in which the authority is
4-64 authorized to design, construct, and operate a turnpike project;

4-65 (2) anticipated to either:

4-66 (A) enhance the operation or revenue of an
4-67 existing, or the feasibility of a proposed, turnpike project by
4-68 bringing traffic to that turnpike project or enhancing the flow of
4-69 traffic either on that turnpike project or to or from that turnpike

5-1 project to another facility; or

5-2 (B) ameliorate the impact of an existing or
5-3 proposed turnpike project by enhancing the capability of another
5-4 facility to handle traffic traveling, or anticipated to travel, to
5-5 or from that turnpike project; and

5-6 (3) not anticipated to result in an overall reduction
5-7 of revenue of any turnpike project or system.

5-8 (c) An authority shall enter into an agreement to implement
5-9 this section with the department, the commission, or another [a
5-10 local] governmental entity~~[, or another political subdivision]~~
5-11 that owns a street, road, alley, or highway that is directly
5-12 affected by the authority's turnpike project or related facility.

5-13 (f) Except as provided by this section, an authority has the
5-14 same powers and may use the same procedures with respect to the
5-15 study, financing, design, acquisition, construction, maintenance,
5-16 repair, and operation of a highway or similar facility under this
5-17 section as are available to the authority with respect to a turnpike
5-18 project or system.

5-19 SECTION 9. Section 366.038, Transportation Code, is amended
5-20 by amending Subsection (c) and adding Subsection (c-1) to read as
5-21 follows:

5-22 (c) An authority may ~~[not]~~ provide financial security,
5-23 including a cash collateral account, letter of credit, surety bond,
5-24 or other credit agreement, for the performance of tolling services
5-25 the authority provides under this section, regardless of when an
5-26 agreement to provide such services was entered into, unless [if]:

5-27 (1) the authority determines that providing security
5-28 could restrict the amount, or increase the cost, of bonds or other
5-29 debt obligations the authority may subsequently issue under this
5-30 chapter; or

5-31 (2) the authority is not reimbursed its cost of
5-32 providing the security.

5-33 (c-1) Financial security provided and any related agreement
5-34 entered into by an authority under this section does not require the
5-35 approval of the attorney general under Section 366.116 or any other
5-36 law.

5-37 SECTION 10. Subsection (a), Section 366.071,
5-38 Transportation Code, is amended to read as follows:

5-39 (a) An authority may pay the expenses of studying the cost
5-40 and feasibility of a proposed turnpike project or system, the
5-41 expenses of designing and engineering a proposed turnpike project
5-42 or system, and any other expenses relating to the preparation and
5-43 issuance of bonds for a proposed turnpike project or system by:

5-44 (1) using legally available revenue derived from an
5-45 existing turnpike project or system;

5-46 (2) borrowing money and issuing bonds or entering into
5-47 a loan agreement payable out of legally available revenue
5-48 anticipated to be derived from the operation of an existing
5-49 turnpike project or system; or

5-50 (3) pledging to the payment of the bonds or loan
5-51 agreements:

5-52 (A) legally available revenue anticipated to be
5-53 derived from the operation of an existing turnpike project or
5-54 system;

5-55 (B) proceeds from the sale of other bonds; or

5-56 (C) revenue legally available to the authority
5-57 from another source.

5-58 SECTION 11. Subsection (c), Section 366.072,
5-59 Transportation Code, is amended to read as follows:

5-60 (c) Money in the feasibility study fund may be used only to
5-61 pay:

5-62 (1) the expenses of:

5-63 (A) studying the cost and feasibility of a
5-64 proposed turnpike project or system; or

5-65 (B) designing and engineering a proposed
5-66 turnpike project or system; or

5-67 (2) ~~[and]~~ any other expenses relating to:

5-68 (A) ~~[(1)]~~ the preparation and issuance of bonds
5-69 for, or the financing of:

6-1 (i) the acquisition and construction of a
 6-2 proposed turnpike project or system; or
 6-3 (ii) [~~+~~
 6-4 [~~(2)~~ the ~~financing of~~] the improvement, extension, or
 6-5 expansion of an existing turnpike project or system; or [~~and~~]
 6-6 (B) [~~(3)~~] private participation, as authorized
 6-7 by law, in:
 6-8 (i) the financing of a proposed turnpike
 6-9 project or system;
 6-10 (ii) [~~+~~] the refinancing of an existing
 6-11 turnpike project or system; [~~+~~] or
 6-12 (iii) the financing of an improvement,
 6-13 extension, or expansion of a turnpike project or system.

6-14 SECTION 12. The heading to Section 366.073, Transportation
 6-15 Code, is amended to read as follows:

6-16 Sec. 366.073. FEASIBILITY STUDY BY MUNICIPALITY, COUNTY,
 6-17 OTHER [~~LOCAL~~] GOVERNMENTAL ENTITY, OR PRIVATE GROUP.

6-18 SECTION 13. Subsection (a), Section 366.073,
 6-19 Transportation Code, is amended to read as follows:

6-20 (a) One or more municipalities, counties, or [~~local~~]
 6-21 governmental entities, a combination of municipalities, counties,
 6-22 and [~~local~~] governmental entities, or a private group or
 6-23 combination of individuals [~~in this state~~] may pay all or part of
 6-24 the expenses of studying the cost and feasibility of a proposed
 6-25 turnpike project or system and any other expenses relating to:

6-26 (1) the preparation and issuance of bonds for, or the
 6-27 financing of:

6-28 (A) the acquisition and construction of a
 6-29 proposed turnpike project or system by an authority; or

6-30 (B) [~~(2)~~] the improvement, extension, or
 6-31 expansion of an authority's existing turnpike project or system; or

6-32 (2) [~~(3)~~] the use of private participation under
 6-33 applicable law in connection with the acquisition, construction,
 6-34 improvement, expansion, extension, maintenance, repair, or
 6-35 operation of a turnpike project or system by an authority.

6-36 SECTION 14. Section 366.111, Transportation Code, is
 6-37 amended by amending Subsection (a) and adding Subsection (i) to
 6-38 read as follows:

6-39 (a) An authority, by adoption of a bond resolution, may
 6-40 authorize the issuance of bonds to pay all or part of the cost of a
 6-41 turnpike project or system, to refund any bonds previously issued
 6-42 for the turnpike project or system, or to pay for all or part of the
 6-43 cost of a turnpike project or system that is or will become a part of
 6-44 another system.

6-45 (i) Bonds issued under this chapter shall be considered
 6-46 authorized investments under Chapter 2256, Government Code, for
 6-47 this state, any governmental entity, and any other public entity
 6-48 proposing to invest in the bonds.

6-49 SECTION 15. Subsections (a) and (b), Section 366.113,
 6-50 Transportation Code, are amended to read as follows:

6-51 (a) The principal of, interest on, and any redemption
 6-52 premium on bonds issued by an authority are payable solely from:

6-53 (1) the revenue of the turnpike project or system for
 6-54 which the bonds are issued, including tolls pledged to pay the
 6-55 bonds;

6-56 (2) payments made under an agreement with the
 6-57 commission or a [~~local~~] governmental entity as authorized
 6-58 [~~provided~~] by this chapter [~~Subchapter C~~];

6-59 (3) revenue [~~money derived from any other source~~
 6-60 ~~available to the authority, other than money derived~~] from a
 6-61 turnpike project that is not part of the same system or [~~money~~
 6-62 ~~derived~~] from a different system [~~, except to the extent~~] that [~~the~~
 6-63 ~~surplus revenue of a turnpike project or system~~] has been pledged
 6-64 for that purpose under Section 366.175; [~~and~~]

6-65 (4) amounts received under a credit agreement relating
 6-66 to the turnpike project or system for which the bonds are issued;

6-67 (5) revenue or other money in a general fund of an
 6-68 authority;

6-69 (6) proceeds of the sale of other bonds; and

7-1 (7) revenue or other money derived from any other
 7-2 source available to the authority.

7-3 (b) Bonds issued under this chapter do not constitute a debt
 7-4 of the state, a governmental entity, or any of the counties of an
 7-5 authority or a pledge of the faith and credit of the state, a
 7-6 governmental entity, or any of the counties. Each bond must contain
 7-7 on its face a statement to the effect that the state, the authority,
 7-8 ~~[and]~~ the counties of the authority, and any other governmental
 7-9 entity are not obligated to pay the bond or the interest on the bond
 7-10 from a source other than the amount pledged to pay the bond and the
 7-11 interest on the bond, and ~~[neither]~~ the faith and credit and taxing
 7-12 power of neither the state, any governmental entity, or the
 7-13 counties of the authority are pledged to the payment of the
 7-14 principal of or interest on the bond. This subsection does not
 7-15 apply to a governmental entity that has issued bonds or entered into
 7-16 an agreement under Subchapter G.

7-17 SECTION 16. Subsection (a), Section 366.114,
 7-18 Transportation Code, is amended to read as follows:

7-19 (a) A lien on or a pledge of revenue from a turnpike project
 7-20 or system under this chapter, a lien on or a pledge of revenue from
 7-21 ~~[or on]~~ a reserve, replacement, or other fund established in
 7-22 connection with a bond issued under this chapter, or a lien on or a
 7-23 pledge of revenue from a contract or agreement entered into under
 7-24 this chapter:

7-25 (1) is enforceable at the time of payment for and
 7-26 delivery of the bond or on the effective date of the contract or
 7-27 agreement;

7-28 (2) applies to an item on hand or subsequently
 7-29 received;

7-30 (3) applies without physical delivery of an item or
 7-31 other act; and

7-32 (4) is enforceable against any person having any
 7-33 claim, in tort, contract, or other remedy, against the applicable
 7-34 authority without regard to whether the person has notice of the
 7-35 lien or pledge.

7-36 SECTION 17. Subsection (a), Section 366.117,
 7-37 Transportation Code, is amended to read as follows:

7-38 (a) A bank or trust company incorporated under the laws of
 7-39 this state or that maintains an office in this state that acts as
 7-40 depository of the proceeds of bonds or of revenue may furnish
 7-41 indemnifying bonds or pledge securities that an authority requires.

7-42 SECTION 18. Section 366.118, Transportation Code, is
 7-43 amended to read as follows:

7-44 Sec. 366.118. APPLICABILITY OF OTHER LAW; CONFLICTS. All
 7-45 laws affecting the issuance of bonds by ~~[local]~~ governmental
 7-46 entities, including Chapters 1201, 1202, 1204, and 1371, Government
 7-47 Code, apply to bonds issued under this chapter. To the extent of a
 7-48 conflict between those laws and this chapter, the provisions of
 7-49 this chapter prevail.

7-50 SECTION 19. Subsection (a), Section 366.162,
 7-51 Transportation Code, is amended to read as follows:

7-52 (a) An authority may construct or improve a turnpike project
 7-53 on real property, including a right-of-way acquired by the
 7-54 authority or provided to the authority for that purpose by the
 7-55 commission, a political subdivision of this state, or any other
 7-56 ~~[local]~~ governmental entity.

7-57 SECTION 20. Subchapter E, Chapter 366, Transportation Code,
 7-58 is amended by adding Section 366.1631 to read as follows:

7-59 Sec. 366.1631. PARTICIPATION PAYMENT FOR REAL PROPERTY.

7-60 (a) As an alternative to paying for an interest in real property or
 7-61 a real property right with a single fixed payment, an authority may,
 7-62 with the property owner's consent, pay the owner by means of a
 7-63 participation payment.

7-64 (b) A right to receive a participation payment under this
 7-65 section is subordinate to any right to receive a fee as payment on
 7-66 the principal of or interest on a bond that is issued for the
 7-67 construction of the applicable segment.

7-68 (c) In this section, "participation payment" means an
 7-69 intangible legal right to receive a percentage of one or more

8-1 identified fees related to a segment constructed by the authority.
8-2 SECTION 21. Subsection (b), Section 366.168,
8-3 Transportation Code, is amended to read as follows:

8-4 (b) At its option, an authority may negotiate for and
8-5 purchase the severed real property or any part of the severed real
8-6 property if the authority and the property owner agree on terms for
8-7 the purchase. Notwithstanding Section 272.001, Local Government
8-8 Code, an ~~[An]~~ authority may, by any commercially available method,
8-9 sell and dispose of severed real property that it determines is not
8-10 necessary or useful to the authority. Severed property must be
8-11 appraised before being offered for sale by an authority.

8-12 SECTION 22. Subsections (a), (b), and (c), Section 366.169,
8-13 Transportation Code, are amended to read as follows:

8-14 (a) An authority may use real property, including submerged
8-15 land, streets, alleys, and easements, owned by the state or another
8-16 [~~a local~~] governmental entity that the authority considers
8-17 necessary for the construction or operation of a turnpike project.

8-18 (b) The state or another [~~a local~~] governmental entity
8-19 having charge of public real property may consent to the use of the
8-20 property for a turnpike project.

8-21 (c) Except as provided by Section 228.201, the state or
8-22 another [~~a local~~] governmental entity may convey, grant, or lease
8-23 to an authority real property, including highways and other real
8-24 property already devoted to public use and rights or easements in
8-25 real property, that may be necessary or convenient to accomplish
8-26 the authority's purposes, including the construction or operation
8-27 of a turnpike project. A conveyance, grant, or lease under this
8-28 section may be made without advertising, court order, or other
8-29 action other than the normal action of the state or another [~~local~~]
8-30 governmental entity necessary for a conveyance, grant, or lease.

8-31 SECTION 23. Subsection (c), Section 366.170,
8-32 Transportation Code, is amended to read as follows:

8-33 (c) An authority has full easements and rights-of-way
8-34 through, across, under, and over any property owned by the state or
8-35 another [~~any local~~] governmental entity that are necessary or
8-36 convenient to construct, acquire, or efficiently operate a turnpike
8-37 project or system under this chapter. This subsection does not
8-38 affect the obligation of the authority under other state law,
8-39 including Section 373.102, to compensate or reimburse the state for
8-40 the use or acquisition of an easement or right-of-way on property
8-41 owned by or on behalf of the state. An authority's use of property
8-42 owned by or on behalf of the state is subject to any covenants,
8-43 conditions, restrictions, or limitations affecting that property.

8-44 SECTION 24. Section 366.173, Transportation Code, is
8-45 amended by amending Subsections (b), (c), and (d) and adding
8-46 Subsection (h) to read as follows:

8-47 (b) Tolls must be set so that the aggregate of tolls from an
8-48 authority's turnpike project or system, together with other revenue
8-49 of the turnpike project or system:

- 8-50 (1) provides revenue sufficient to pay:
 - 8-51 (A) the cost of maintaining, repairing, and
 - 8-52 operating the turnpike project or system; ~~and~~
 - 8-53 (B) the principal of and interest on the bonds
 - 8-54 issued for the turnpike project or system as those bonds become due
 - 8-55 and payable; and
 - 8-56 (C) any other payment obligations of the
 - 8-57 authority under a contract or agreement authorized under this
 - 8-58 chapter; and

8-59 (2) creates reserves for a purpose listed under
8-60 Subdivision (1).

8-61 (c) Tolls are not subject to supervision or regulation by
8-62 any state agency or other [~~local~~] governmental entity.

8-63 (d) Tolls and other revenue derived from a turnpike project
8-64 or system for which bonds are issued, except the part necessary to
8-65 pay the cost of maintenance, repair, and operation and to provide
8-66 reserves for those costs as may be provided in the bond proceedings,
8-67 shall be set aside at regular intervals as may be provided in the
8-68 bond resolution or trust agreement in a sinking fund that is pledged
8-69 to and charged with the payment of:

- 9-1 (1) interest on the bonds as it becomes due;
- 9-2 (2) principal of the bonds as it becomes due;
- 9-3 (3) necessary charges of paying agents for paying
- 9-4 principal and interest; ~~and~~
- 9-5 (4) the redemption price or the purchase price of
- 9-6 bonds retired by call or purchase as provided by the bond
- 9-7 proceedings; and
- 9-8 (5) any amounts due under credit agreements.

9-9 (h) Notwithstanding any other provision of this chapter, an
 9-10 authority may pledge all or any part of its revenue and any other
 9-11 funds available to the authority to the payment of any obligations
 9-12 of the authority under a contract or agreement authorized by this
 9-13 chapter.

9-14 SECTION 25. Section 366.175, Transportation Code, is
 9-15 amended to read as follows:

9-16 Sec. 366.175. USE OF ~~[SURPLUS]~~ REVENUE. The board of an
 9-17 authority may by resolution authorize the use of ~~[surplus]~~ revenue
 9-18 of a turnpike project or system to pay the costs of another turnpike
 9-19 project or system ~~[other than a project financed under Subchapter~~
 9-20 ~~6].~~ The board may in the resolution prescribe terms for the use of
 9-21 the revenue, including the pledge of the revenue, but may not take
 9-22 an action under this section that violates, impairs, or is
 9-23 inconsistent with a bond resolution, trust agreement, or indenture
 9-24 governing the use of the ~~[surplus]~~ revenue.

9-25 SECTION 26. Subsection (b), Section 366.176,
 9-26 Transportation Code, is amended to read as follows:

9-27 (b) An authority is exempt from payment of development fees,
 9-28 utility connection fees, assessments, and service fees imposed or
 9-29 assessed by a county, municipality, road and utility district,
 9-30 river authority, any other ~~[state or local]~~ governmental entity, or
 9-31 any property owners' or homeowners' association.

9-32 SECTION 27. Subsection (c), Section 366.182,
 9-33 Transportation Code, is amended to read as follows:

9-34 (c) An authority may contract with any ~~[state or local]~~
 9-35 governmental entity for the services of peace officers of that
 9-36 entity [agency].

9-37 SECTION 28. Subsections (j) and (k), Section 366.251,
 9-38 Transportation Code, are amended to read as follows:

9-39 (j) The board of an authority shall select one director as
 9-40 the presiding officer of the board to serve in that capacity until
 9-41 the person is no longer [person's term as] a director or the board
 9-42 selects another director as the presiding officer [expires]. The
 9-43 board shall elect one director as assistant presiding officer. The
 9-44 board shall select a secretary and treasurer, neither of whom need
 9-45 be a director.

9-46 (k) If a vacancy exists on a board, the majority of
 9-47 directors serving on the board is a quorum. The vote of a majority
 9-48 attending a board meeting is necessary for any action taken by the
 9-49 board, provided that the directors of an authority may adopt rules
 9-50 requiring a vote of greater than a majority of directors attending a
 9-51 board meeting to approve:

9-52 (1) transferring all or substantially all of the
 9-53 authority's assets or a material portion of a turnpike project or
 9-54 system;

9-55 (2) assuming another entity's debts, obligations, or
 9-56 liabilities;

9-57 (3) undertaking a turnpike project that is not
 9-58 expected to satisfy financial criteria within a time as provided by
 9-59 a rule adopted by the board;

9-60 (4) the inclusion of a county in the authority under
 9-61 Section 366.031(d);

9-62 (5) the authority's cessation of operations,
 9-63 abolishment, or reconstitution as an entity different from a
 9-64 regional tollway authority;

9-65 (6) removing a director; or

9-66 (7) amending a rule adopted under Subdivision (1),
 9-67 (2), (3), (4), (5), or (6). [If a vacancy exists on a board, the
 9-68 majority of directors serving on the board is a quorum.]

9-69 SECTION 29. Section 366.302, Transportation Code, is

10-1 amended by amending Subsections (a), (b), (c), and (d) and adding
10-2 Subsection (h) to read as follows:

10-3 (a) An authority may enter into an agreement with one or
10-4 more [a] public or private entities [entity], including a toll road
10-5 corporation, the United States, a state of the United States, the
10-6 United Mexican States, a state of the United Mexican States, or a
10-7 [local] governmental entity, [or another political subdivision],
10-8 to permit the entity, jointly with the authority, to study the
10-9 feasibility of a turnpike project or system or to acquire, design,
10-10 finance, construct, maintain, repair, operate, extend, or expand a
10-11 turnpike project or system. An authority and a private entity
10-12 jointly may enter into an agreement with another governmental
10-13 entity to study the feasibility of a turnpike project or system or
10-14 to acquire, design, finance, construct, maintain, repair, operate,
10-15 extend, or expand a turnpike project or system.

10-16 (b) An authority has broad discretion to negotiate
10-17 provisions in a development agreement with a private entity. The
10-18 provisions may include provisions relating to:

10-19 (1) the design, financing, acquisition, construction,
10-20 maintenance, and operation of a turnpike project or system in
10-21 accordance with standards adopted by the authority; and

10-22 (2) professional and consulting services to be
10-23 rendered under standards adopted by the authority in connection
10-24 with a turnpike project or system.

10-25 (c) An authority may not incur a financial obligation on
10-26 behalf of, or otherwise guarantee the obligations of, a private
10-27 entity that acquires, constructs, maintains, or operates a turnpike
10-28 project or system.

10-29 (d) An authority or a county in an authority is not liable
10-30 for any financial or other obligation of a turnpike project or
10-31 system solely because a private entity acquires, constructs,
10-32 finances, or operates any part of a turnpike project or system.

10-33 (h) For purposes of this section, "turnpike project"
10-34 includes a toll project, as defined by Section 372.001, of another
10-35 entity regardless of whether the authority will ever own or operate
10-36 the project.

10-37 SECTION 30. Section 366.303, Transportation Code, is
10-38 amended to read as follows:

10-39 Sec. 366.303. AGREEMENTS BETWEEN AUTHORITY AND ~~[LOCAL]~~
10-40 GOVERNMENTAL ENTITIES. (a) A ~~[local]~~ governmental entity ~~[other~~
10-41 ~~than a nonprofit corporation]~~ may, consistent with the Texas
10-42 Constitution, issue bonds or enter into and make payments under
10-43 agreements with an authority to acquire, construct, maintain, or
10-44 operate a turnpike project or system, whether inside or outside the
10-45 geographic boundaries of the governmental entity.

10-46 (a-1) Agreements under Subsection (a) may:

10-47 (1) include agreements for the governmental entity to
10-48 pay the principal of, and interest on, bonds, notes, or other
10-49 obligations issued by the authority; and

10-50 (2) make payments under any related credit agreements.

10-51 (a-2) The governmental entity may levy and collect taxes to
10-52 pay the interest on [the] bonds issued under Subsection (a) and to
10-53 provide a sinking fund for the redemption of the bonds.

10-54 (b) In addition to the powers provided by Subsection (a), a
10-55 ~~[local]~~ governmental entity may, within any applicable
10-56 constitutional limitations, agree with an authority to:

10-57 (1) issue bonds or enter into and make payments under
10-58 an agreement to acquire, construct, maintain, or operate any
10-59 portion of a turnpike project or system of that authority;

10-60 (2) create:

10-61 (A) a taxing district;

10-62 (B) a transportation reinvestment zone under
10-63 Subchapter E, Chapter 222; or

10-64 (C) an entity to promote economic development;

10-65 and

10-66 (3) collect and remit to an authority taxes, fees, or
10-67 assessments collected for purposes of developing turnpike projects
10-68 or systems.

10-69 (b-1) An agreement under Subsection (b) may include a means

11-1 for a governmental entity to pledge or otherwise provide funds for a
 11-2 transportation project that benefits the governmental entity to be
 11-3 developed by the authority.

11-4 (c) To make payments under an agreement under Subsection
 11-5 (b), to pay the interest on bonds issued under Subsection (b), or to
 11-6 provide a sinking fund for the bonds or the agreement [~~contract~~], a
 11-7 [~~local~~] governmental entity may:

11-8 (1) pledge revenue from any available source,
 11-9 including annual appropriations;

11-10 (2) levy and collect taxes;

11-11 (3) use funds deposited in a tax increment account
 11-12 established for a transportation reinvestment zone under
 11-13 Subchapter E, Chapter 222; or

11-14 (4) [~~(3)~~] provide for a combination of Subdivisions
 11-15 (1), [~~and~~] (2), and (3).

11-16 (d) The term of an agreement under this section may not
 11-17 exceed 40 years.

11-18 (e) Any election required to permit action under this
 11-19 subchapter must be held in conformity with Chapter 1251, Government
 11-20 Code, or other law applicable to the [~~local~~] governmental entity.

11-21 (f) The governing body of any governmental entity issuing
 11-22 bonds, notes, or other obligations or entering into agreements
 11-23 under this section may exercise the authority granted to the
 11-24 governing body of an issuer with regard to issuance of obligations
 11-25 under Chapter 1371, Government Code, except that the prohibition in
 11-26 that chapter on the repayment of an obligation with ad valorem taxes
 11-27 does not apply to an issuer exercising the authority granted by this
 11-28 section.

11-29 (g) An agreement under this section may contain repayment or
 11-30 reimbursement obligations of an authority.

11-31 SECTION 31. Subsections (f) and (g), Section 366.407,
 11-32 Transportation Code, are amended to read as follows:

11-33 (f) If an authority enters into a comprehensive development
 11-34 agreement with a private participant that includes the collection
 11-35 by the private participant of tolls for the use of a turnpike
 11-36 project or system [~~toll project~~], the private participant shall
 11-37 submit to the authority for approval:

11-38 (1) the methodology for:

11-39 (A) the setting of tolls; and

11-40 (B) increasing the amount of the tolls;

11-41 (2) a plan outlining methods the private participant
 11-42 will use to collect the tolls, including:

11-43 (A) any charge to be imposed as a penalty for late
 11-44 payment of a toll; and

11-45 (B) any charge to be imposed to recover the cost
 11-46 of collecting a delinquent toll; and

11-47 (3) any proposed change in an approved methodology for
 11-48 the setting of a toll or a plan for collecting the toll.

11-49 (g) Except as provided by this subsection, a comprehensive
 11-50 development agreement with a private participant that includes the
 11-51 collection by the private participant of tolls for the use of a
 11-52 turnpike project or system [~~toll project~~] may be for a term not
 11-53 longer than 50 years from the later of the date of final acceptance
 11-54 of the project or system or the start of revenue operations by the
 11-55 private participant, not to exceed a total term of 52 years. The
 11-56 contract must contain an explicit mechanism for setting the price
 11-57 for the purchase by the authority of the interest of the private
 11-58 participant in the contract and related property, including any
 11-59 interest in a highway or other facility designed, developed,
 11-60 financed, constructed, operated, or maintained under the contract.

11-61 SECTION 32. Subsection (a), Section 366.409,
 11-62 Transportation Code, is amended to read as follows:

11-63 (a) Payments received by an authority under a comprehensive
 11-64 development agreement shall be used by the authority to finance the
 11-65 acquisition, construction, maintenance, or operation of a turnpike
 11-66 project or a highway.

11-67 SECTION 33. This Act takes effect September 1, 2013.

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