

## **BILL ANALYSIS**

C.S.H.B. 20  
By: Simmons  
Transportation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that voters in Texas recently made it clear that improving the state's transportation infrastructure system is a top priority. While there have been numerous efforts to increase transportation funding, public concern regarding how and why transportation funds are spent continues to grow, placing the infrastructure needs of the state at odds with the public desire for greater transparency and efficiency. C.S.H.B. 20 seeks to provide a framework to ensure that funds for transportation are administered in an objective and transparent manner with accountability for every dollar spent.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 20 amends the Transportation Code to require the Texas Department of Transportation (TxDOT) to develop and implement and the Texas Transportation Commission to approve a performance-based planning and programming process dedicated to providing the executive and legislative branches of government with indicators that quantify and qualify progress toward the attainment of all TxDOT goals and objectives established by the legislature and the commission. The bill requires TxDOT to develop and implement performance metrics and performance measures as part of the review of strategic planning in the statewide transportation plan, rural transportation plans, and unified transportation program; as part of the evaluation of decision-making on projects selected for funding in the unified transportation program and statewide transportation improvement program; and as part of the evaluation of project delivery for projects in TxDOT's letting schedule. The bill requires TxDOT to use and the commission to review performance metrics and measures for certain prescribed purposes. The bill requires TxDOT to develop and implement and the commission to approve specific performance metrics and measures for sustainable objectives.

C.S.H.B. 20 establishes that the requirement for TxDOT to develop and implement a performance-based planning and programming process does not replace or alter the requirement of TxDOT to comply with the budgetary performance measures for each biennium as established in the General Appropriations Act. The bill prohibits TxDOT from relying on its requirement to report budgetary performance measures as satisfying the requirements imposed on TxDOT for purposes of its statewide transportation report and requires TxDOT to develop and implement periodic reporting schedules for all performance metrics and measures required under the report.

C.S.H.B. 20 requires all local transportation entities in Texas to develop, adopt, and submit to TxDOT guidelines governing the funding prioritization of the entities' transportation projects. The bill sets out the criteria a local transportation entity is required to consider at a minimum in developing the guidelines for funding prioritization. The bill requires each local transportation entity and TxDOT district, in prioritizing projects, to include projects that meet short-term and long-term needs of the entity's jurisdiction with emphasis given to projects already approved in a regional transportation plan. The bill requires each local transportation entity and TxDOT district to submit to TxDOT the funding prioritization for transportation projects in the entity's jurisdiction.

C.S.H.B. 20 requires TxDOT to prioritize and the commission to approve projects included in the statewide transportation plan in order to provide financial assistance. The bill requires TxDOT to establish and the commission to approve a performance-based process for setting funding levels for the categories of the projects in TxDOT's unified transportation program. The bill limits the commission's authority to make discretionary funding decisions to no more than 10 percent of the current biennial budget of TxDOT. The bill sets out provisions relating to the projects to be prioritized by TxDOT for which financial assistance is sought from the commission, the scoring system and criteria associated with that prioritization, and additional considerations TxDOT is required to make in evaluating projects.

C.S.H.B. 20 requires, not later than the earlier of 30 days after the bill's effective date or September 1, 2015, the speaker of the house of representatives to appoint nine members to a House Select Committee on Transportation Planning and designate one member as chair and requires the lieutenant governor to appoint nine members to a Senate Select Committee on Transportation Planning and designate one member as chair by that same deadline. The bill authorizes the select committees to meet separately at the call of the chair or jointly at the call of both chairs and requires the chairs to act as joint chairs if the select committees meet jointly. The bill describes the factors the select committees are required to review, study, and evaluate. The bill requires the select committees, following consideration of such factors, to jointly adopt recommendations related to the reviewed subjects and to provide to the legislature, not later than November 1, 2016, a written report of the committee's recommendations on the reviewed subjects.

C.S.H.B. 20 authorizes the select committees to exercise any power of a committee of their respective chambers and any powers of a joint committee. The bill specifies that the select committees are considered a joint committee and the cost of operation of each committee may be borne in the same manner as the cost of a joint committee. The bill authorizes the Texas Legislative Council to provide funding for the operations of the select committees. The bill makes the joint rules adopted by the 84th Legislature for the administration of joint interim legislative study committees applicable to the select committees, to the extent not inconsistent with the bill's provisions.

C.S.H.B. 20 requires TxDOT, not later than September 1, 2015, to submit an initial report to the select committees. The bill requires the report to provide information necessary for the select committees to review, study, and evaluate certain of the factors described by the bill and the bill requires TxDOT, not later than November 1, 2015, to submit to the select committees a preliminary report on the remaining factors described by the bill. The bill requires TxDOT to submit reports to the select committees on any other matters not specified in the bill as requested by the committees. The bill's provisions relating to the select committees expires January 13, 2017.

C.S.H.B. 20 repeals Section 201.117, Transportation Code, which authorizes the Texas Transportation Commission to establish advisory committees on any of the matters under its jurisdiction as it considers necessary.

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 20 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 201, Transportation Code, is amended by adding Subchapter C-1 to read as follows:

No equivalent provision.

SUBCHAPTER C-1. ADVISORY COMMITTEES

Sec. 201.151. STATE INFRASTRUCTURE ADVISORY COMMITTEE.

(a) In this section, "advisory committee" means the state infrastructure advisory committee.

(b) The state infrastructure advisory committee is composed of the following six members:

(1) three members of the senate appointed by the lieutenant governor, including:

(A) a member of the committee having primary jurisdiction over matters relating to finance; and

(B) the chair of the committee having primary jurisdiction over transportation; and

(2) three members of the house of representatives appointed by the speaker of the house of representatives, including:

(A) a member of the committee having primary jurisdiction over matters relating to appropriations; and

(B) the chair of the committee having primary jurisdiction over transportation.

(c) The following persons shall serve as staff support for the advisory committee:

(1) a member of the senior staff of the department, designated by the director, who has management-level responsibility for the design, implementation, and ongoing review of project selection criteria for transportation infrastructure projects;

(2) a member of the senior staff of the department, designated by the director, who has management-level responsibility for the funding and financing of transportation infrastructure projects;

(3) a member of the senior staff of the department, designated by the director, who

has management-level responsibility relating to the department's policies on innovation and strategy;

(4) a member of the staff of the internal auditor of the department, designated by the commission; and

(5) the support staff of the commission.

(d) A member of the advisory committee serves at the will of the person who appointed the member.

(e) The chairs of the committees of the house of representatives and senate having primary jurisdiction over transportation serve as co-presiding officers of the advisory committee.

(f) The advisory committee may hold public hearings, formal meetings, or work sessions called by either co-presiding officer of the committee at any time. The advisory committee may not take formal action at a public hearing, formal meeting, or work session unless a quorum of the committee is present.

(g) Except as otherwise provided by this subsection, a member of the advisory committee is not entitled to receive compensation for service on the committee. Service on the advisory committee is considered legislative service for which a member of the advisory committee is entitled to reimbursement and other benefits in the same manner and to the same extent as for other legislative service.

(h) The advisory committee shall submit a report to the commission regarding transportation funding, project selection, and financing matters for use by the commission. The report must include an assessment of and recommendations on:

(1) department rules and policies regarding the preparation for and allocation of construction funding for projects involving commission discretion under the department's unified transportation program;

(2) department rules and policies regarding the development and implementation of performance-based scoring and decision-making for project prioritization and selection;

(3) all available programs or funds for providing financing for projects included in the unified transportation program, including guidelines for the ongoing use of each program or fund that has been authorized by the legislature;

- (4) the use of and lending practices related to the Texas Mobility Fund;
- (5) performance metrics and measurement tools used by the department to evaluate the performance of a department project or program;
- (6) the department's collaboration with state elected officials, local governments, government trade associations, metropolitan planning organizations, regional mobility authorities, and other entities when adopting rules or formulating policies;
- (7) the department's innovation and technology projects and programs, including information technology projects and technology advances in construction, maintenance, traffic management, and motor vehicles;
- (8) the department's safety and maintenance projects and programs, including projects and programs related to energy sector roads and bridges; and
- (9) the overall operation, function, and structure of the department and the commission.
- (i) This subsection and Subsection (h) expire September 1, 2017.
- (j) The advisory committee may advise and make recommendations to the department and commission on any matter at any time, including regarding information to be posted on the department's Internet website.
- (k) The advisory committee may adopt policies and procedures as needed to implement this section and its responsibilities.
- (l) On the recommendation of the advisory committee, the department shall enter into a contract with an independent firm for a forensic audit of the actions of the department or commission in an area of interest determined by the advisory committee, including procurement procedures, information technology practices, toll operations, organizational structure, methods of funding or financing of projects, organizational transparency, external communications, and project selection.
- (m) Chapter 2110, Government Code, does not apply to the advisory committee.
- (n) The advisory committee is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the committee

is abolished and this section expires September 1, 2025.

Sec. 201.152. STAKEHOLDER ADVISORY COMMITTEES.

(a) The commission shall establish one or more stakeholder advisory committees to make recommendations to the commission or department before the adoption of a rule, policy, or procedure affecting the stakeholders. An advisory committee has the purposes, powers, and duties prescribed by the commission.

(b) Chapter 2110, Government Code, does not apply to a stakeholder advisory committee established under this section.

(c) The commission shall appoint to each stakeholder advisory committee persons who:

(1) are selected from a list provided by the director;

(2) have knowledge about and interests in the work of the advisory committee being established; and

(3) represent a broad range of viewpoints on the work of the advisory committee being established.

(d) A stakeholder advisory committee must include a member of the public if appropriate and beneficial.

(e) A member of a stakeholder advisory committee may not be compensated by the commission or the department for service on the advisory committee.

(f) The meetings of a stakeholder advisory committee must be made accessible to the public in person or through electronic means.

SECTION 2. Subchapter H, Chapter 201, Transportation Code, is amended by adding Sections 201.6016 and 201.6017 to read as follows:

Sec. 201.6016. PRIORITIZATION OF PROJECTS BY LOCAL TRANSPORTATION ENTITIES AND DEPARTMENT DISTRICTS.

(a) The department shall work with all local transportation entities in the state to develop and adopt uniform guidelines governing the funding prioritization of the entities' transportation projects.

(b) The commission, in consultation with department staff, shall establish a project selection stakeholders advisory committee

SECTION 2. Subchapter P, Chapter 201, Transportation Code, is amended by adding Sections 201.999 and 201.9991 to read as follows:

Sec. 201.999. PRIORITIZATION OF PROJECTS BY LOCAL TRANSPORTATION ENTITIES AND DEPARTMENT DISTRICTS.

(a) All local transportation entities in the state shall develop, adopt, and submit to the department guidelines governing the funding prioritization of the entities' transportation projects.

that represents diverse interests in the state.

The committee is composed of:

(1) the presiding officer of the governing body or a person designated by the presiding officer of at least:

(A) 10 metropolitan planning organizations; and

(B) 3 regional mobility authorities; and

(2) 10 department district engineers.

(c) The project selection stakeholders advisory committee shall review proposed guidelines from each local transportation entity and recommend to the department uniform guidelines to be adopted under Subsection (a) and implemented by all local transportation entities and department districts.

(d) In making recommendations under Subsection (c), the project selection stakeholders advisory committee shall consider:

(1) the time frame in which a project is needed;

(2) the feasibility of a project, including the availability of rights-of-way, funding support, and the ability to plan, design, and construct the project in a reasonable period of time;

(3) the viability of a project, including whether the project is a comprehensive solution with a measurable outcome;

(4) the sustainability of a project, assessing how the project will meet the needs of the community, stakeholders, and the environment; and

(5) all criteria established by the commission for prioritization of projects.

(e) In prioritizing projects, each local transportation entity and department district shall include projects that meet short-term and long-term needs of the entity's jurisdiction.

(f) Uniform standards established under this section must be approved by the commission.

(g) Using the uniform standards established

(b) In developing guidelines under Subsection (a), a local transportation entity shall at a minimum consider:

(1) the time frame over which various types of projects are needed and developed;

(2) the readiness of projects considered for short-term and long-term funding opportunities;

(3) the viability and sustainability of a project, including whether the project is a comprehensive solution with a measurable benefit;

(4) local criteria determined by each metropolitan planning organization policy board that focus on local goals and objectives unique to each area; and

(5) all criteria established by the commission for prioritization of projects.

(c) In prioritizing projects, each local transportation entity and department district shall include projects that meet short-term and long-term needs of the entity's jurisdiction with emphasis given to projects already approved in a regional transportation plan.

under this section, each local transportation entity and department district shall submit to the department the funding prioritization for transportation projects in the entity's jurisdiction.

Sec. 201.6017. PRIORITIZATION OF PROJECTS BY DEPARTMENT AND APPROVED BY COMMISSION. (a) The department shall prioritize and the commission shall approve projects included in the statewide transportation plan under Section 201.601 in order to provide financial assistance under this chapter.

(b) The department shall establish and the commission shall approve an overall performance-based process for setting category funding levels in the department's unified transportation program. The department shall consider a zero-based budget approach to address safety, maintenance, congestion, connectivity, economic development, and other needs.

(c) The department shall establish and the commission shall approve a point system for prioritization of projects for which financial assistance is sought from the commission. The project evaluation criteria must take into consideration the department's strategic goals as approved by the commission. The system must include a standard for the department to apply in determining how to take into account the diverse needs of the state so as to fairly allocate funding to all regions of the state.

(d) The department may not recommend and the commission may not approve a deviation from the department's selection of projects for funding of more than 10 percent of the current biennial budget of the department. A deviation must be reviewed with the state infrastructure advisory committee before the commission takes action. Not less than 60 days before approving a deviation, the commission must provide notice of that pending approval to the state infrastructure advisory committee.

(e) In awarding points to projects, the department shall give priority to projects that:

- (1) address safety, maintenance, congestion mitigation, and connectivity;
- (2) provide assistance to urban and rural populations;

(d) Each local transportation entity and department district shall submit to the department the funding prioritization for transportation projects in the entity's jurisdiction.

Sec. 201.9991. PRIORITIZATION OF PROJECTS BY DEPARTMENT AND APPROVED BY COMMISSION. (a) The department shall prioritize and the commission shall approve projects included in the statewide transportation improvement plan under Section 201.601 in order to provide financial assistance under this chapter.

(b) The department shall establish and the commission shall approve a performance-based process for setting funding levels for the categories of projects in the department's unified transportation program.

(c) The department shall establish and the commission shall approve a scoring system for prioritizing projects for which financial assistance is sought from the commission by local transportation entities. The criteria used to score projects must take into consideration the department's strategic goals as approved by the commission. The system must account for the diverse needs of the state so as to fairly allocate funding to all regions of the state.

(d) The commission may make discretionary funding decisions for no more than 10 percent of the current biennial budget of the department.

(e) In scoring projects, the department shall give priority to projects that:

- (1) address safety, maintenance, congestion mitigation, and connectivity;
- (2) provide assistance to urban and rural populations;

- (3) provide regional balance;
- (4) meet a high percentage of the infrastructure needs of a community;
- (5) have available funding;
- (6) are able to begin without significant delay; and
- (7) include public participation in the planning process and public support for the project.
- (f) In addition to criteria under Subsection (e), in prioritizing projects the department shall consider:
  - (1) the local contribution to be made to construct the project;
  - (2) the financial capacity of the entity responsible for the project to repay the obligation if the assistance is in the form of a loan;
  - (3) the ability to timely leverage state financial support with local and federal funding;
  - (4) whether there is an emergency need for the project;
  - (5) whether all preliminary planning and design work associated with the project necessary to reasonably predict cost, construction period, and benefits of the project have been completed;
  - (6) whether all rights-of-way and easements necessary to begin construction have been acquired or approved;
  - (7) the start date for and certainty of the beginning of project construction;
  - (8) the demonstrated or projected impact on the community; and
  - (9) the priority given the project by the applicable local transportation entity under Section 201.6016.

SECTION 3. Section 201.809, Transportation Code, is amended by adding Subsections (e) through (j) to read as follows:

- (e) The department shall develop and implement, and the commission shall approve, a performance-based planning and programming process dedicated to providing the executive and legislative branches of government with indicators that quantify and qualify progress toward attaining all department goals and objectives established by the legislature and the commission.
- (f) The department shall develop and

- (3) provide regional balance;
- (4) meet a high percentage of the infrastructure needs of a community;
- (5) have available funding;
- (6) are able to begin without significant delay; and
- (7) include public participation in the planning process and public support for the project.
- (f) In addition to criteria under Subsection (e), in prioritizing projects the department shall consider:
  - (1) the local contribution to be made to construct the project;
  - (2) the financial capacity of the entity responsible for the project to repay the obligation if the assistance is in the form of a loan;
  - (3) the ability to timely leverage state financial support with local and federal funding;
  - (4) whether there is an emergency need for the project;
  - (5) whether all preliminary planning and design work associated with the project necessary to reasonably predict cost, construction period, and benefits of the project have been completed;
  - (6) whether all rights-of-way and easements necessary to begin construction have been acquired or approved;
  - (7) the start date for and certainty of the beginning of project construction;
  - (8) the demonstrated or projected impact on the community; and
  - (9) the priority given the project by the applicable local transportation entity under Section 201.999.

SECTION 1. Section 201.809, Transportation Code, is amended by adding Subsections (e) through (j) to read as follows:

- (e) The department shall develop and implement, and the commission shall approve, a performance-based planning and programming process dedicated to providing the executive and legislative branches of government with indicators that quantify and qualify progress toward attaining all department goals and objectives established by the legislature and the commission.
- (f) The department shall develop and

implement performance metrics and performance measures as part of:

(1) the review of strategic planning in the statewide transportation plan, metropolitan transportation plans, rural transportation plans, and unified transportation program;

(2) the evaluation of decision-making on projects selected for funding in the unified transportation program and statewide transportation improvement program; and

(3) the evaluation of project delivery for projects in the department's letting schedule.

(g) The department shall use and the commission shall review performance metrics and measures to:

(1) assess how well the transportation system is operating;

(2) provide the department, legislature, stakeholders, and public with information to support decisions;

(3) assess the effectiveness and efficiency of transportation projects and service delivery; and

(4) demonstrate transparency and accountability.

(h) The department shall develop and implement, and the commission shall approve, specific performance metrics and measures for sustainable objectives, including:

(1) congestion reduction;

(2) safety enhancements;

(3) expansion of economic opportunity;

(4) preservation of the value of existing transportation assets;

(5) cost efficiency of the department's operations;

(6) project procurement, delivery, and final cost; and

(7) enhancements in public participation in the infrastructure planning process.

(i) The requirement for the department to develop and implement a performance-based planning and programming process does not replace or alter the requirement of the department to comply with the budgetary performance measures for each biennium as established in the General Appropriations Act. The department may not rely on its requirement to report budgetary performance measures as

implement performance metrics and performance measures as part of:

(1) the review of strategic planning in the statewide transportation plan, rural transportation plans, and unified transportation program;

(2) the evaluation of decision-making on projects selected for funding in the unified transportation program and statewide transportation improvement program; and

(3) the evaluation of project delivery for projects in the department's letting schedule.

(g) The department shall use and the commission shall review performance metrics and measures to:

(1) assess how well the transportation system is performing and operating;

(2) provide the department, legislature, stakeholders, and public with information to support decisions in a manner that is accessible and understandable to the public;

(3) assess the effectiveness and efficiency of transportation projects and service; and

(4) demonstrate transparency and accountability.

(h) The department shall develop and implement, and the commission shall approve, specific performance metrics and measures for sustainable objectives, including:

(1) congestion reduction;

(2) safety enhancements;

(3) expansion of economic opportunity;

(4) preservation of the value of existing transportation assets;

(5) environmental sustainability;

(6) system reliability;

(7) freight mobility;

(8) cost efficiency of the department's operations;

(9) project procurement, delivery, and final cost; and

(10) enhancements in public participation in the infrastructure planning process.

(i) The requirement for the department to develop and implement a performance-based planning and programming process does not replace or alter the requirement of the department to comply with the budgetary performance measures for each biennium as established in the General Appropriations Act. The department may not rely on its requirement to report budgetary performance measures as

satisfying the requirements imposed under this section.

(j) The department shall develop and implement monthly and annual reporting schedules for all performance metrics and measures required under this section.

No equivalent provision.

satisfying the requirements imposed under this section.

(j) The department shall develop and implement periodic reporting schedules for all performance metrics and measures required under this section.

SECTION 3. (a) In this section:

(1) "Commission" means the Texas Transportation Commission.

(2) "Department" means the Texas Department of Transportation.

(b) Not later than the earlier of 30 days after the effective date of this Act or September 1, 2015:

(1) the speaker of the house of representatives shall appoint nine members to a House Select Committee on Transportation Planning and designate one member as chair; and

(2) the lieutenant governor shall appoint nine members to a Senate Select Committee on Transportation Planning and designate one member as chair.

(c) The committees established under this section may meet separately at the call of the chair of the committee or jointly at the call of both chairs. In joint meetings, the chairs shall act as joint chairs.

(d) The committees established under this section, meeting separately or jointly, shall review, study, and evaluate:

(1) department projections regarding the revenue needed by the department to maintain current maintenance, congestion, and connectivity conditions;

(2) the development of funding categories, the allocation of funding to such categories by formula, project selection authority for each funding category, and the development of project selection criteria for commission, department, and district-selected projects;

(3) department rules and policies regarding the development and implementation of performance-based scoring and decision making for project prioritization and selection of commission, department, and district-selected projects;

(4) the use and utilization of alternative methods of financing that have been authorized by the legislature for projects;

(5) performance metrics and measurement tools used by the department to evaluate the performance of a department project or

program;

(6) the department's collaboration with state elected officials, local governments, government trade associations, metropolitan planning organizations, regional mobility authorities, and other entities when adopting rules or formulating policies; and

(7) any proposed rule, policy, program, or plan of the commission or department of statewide significance.

(e) Following consideration of the factors described by Subsection (d) of this section, the committees shall jointly adopt recommendations related to the reviewed subjects and shall, not later than November 1, 2016, provide to the legislature a written report of the committees' recommendations on the reviewed subjects.

(f) The committees established under this section may exercise any power of a committee of their respective chambers and any powers of a joint committee. For the purposes of this section, the committees established under this section are considered a joint committee and the cost of operation of each committee may be borne in the same manner as the cost of a joint committee. The Texas Legislative Council may provide funding for the operations of the committees. To the extent not inconsistent with this section, the joint rules adopted by the 84th Legislature for the administration of joint interim legislative study committees apply to the committees established under this section.

(g) Not later than September 1, 2015, the department shall submit an initial report to the select committees. The report shall provide information necessary for the select committees to review, study, and evaluate the factors described by Subsections (d)(1), (2), and (3) of this section. Not later than November 1, 2015, the department shall submit to the select committees a preliminary report on the remaining factors described by Subsection (d) of this section.

(h) The department shall submit reports to the select committees on any other matters not included in Subsection (d) of this section as requested by the committees.

(i) This section expires January 13, 2017.

SECTION 4. Section 201.117, Transportation Code, is repealed.

SECTION 4. Same as introduced version.

84R 24957

15.112.608

Substitute Document Number: 84R 23625

SECTION 5. Not later than January 1, 2017, the state infrastructure advisory committee established by Section 201.151, Transportation Code, as added by this Act, shall submit to the legislature the report required by that section.

No equivalent provision.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

SECTION 5. Same as introduced version.