

By: Simmons

H.B. No. 2685

A BILL TO BE ENTITLED

AN ACT

relating to the operations of and transportation planning and expenditures by the Texas Department of Transportation and local transportation entities.

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

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

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

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

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

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

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

14           (3) a member of the senior staff of the department,  
15 designated by the director, who has management-level  
16 responsibility relating to the department's policies on innovation  
17 and strategy;

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

20           (5) the support staff of the commission.

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

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

27           (f) The advisory committee may hold public hearings, formal

1 meetings, or work sessions called by either co-presiding officer of  
2 the committee at any time. The advisory committee may not take  
3 formal action at a public hearing, formal meeting, or work session  
4 unless a quorum of the committee is present.

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

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

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

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

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

27 (4) the use of and lending practices related to the

1 Texas Mobility Fund;

2 (5) performance metrics and measurement tools used by  
3 the department to evaluate the performance of a department project  
4 or program;

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

10 (7) the department's innovation and technology  
11 projects and programs, including information technology projects  
12 and technology advances in construction, maintenance, traffic  
13 management, and motor vehicles;

14 (8) the department's safety and maintenance projects  
15 and programs, including projects and programs related to energy  
16 sector roads and bridges; and

17 (9) the overall operation, function, and structure of  
18 the department and the commission.

19 (i) This subsection and Subsection (h) expire September 1,  
20 2017.

21 (j) The advisory committee may advise and make  
22 recommendations to the department and commission on any matter at  
23 any time, including regarding information to be posted on the  
24 department's Internet website.

25 (k) The advisory committee may adopt policies and  
26 procedures as needed to implement this section and its  
27 responsibilities.

1       (1) On the recommendation of the advisory committee, the  
2 department shall enter into a contract with an independent firm for  
3 a forensic audit of the actions of the department or commission in  
4 an area of interest determined by the advisory committee, including  
5 procurement procedures, information technology practices, toll  
6 operations, organizational structure, methods of funding or  
7 financing of projects, organizational transparency, external  
8 communications, and project selection.

9       (m) Chapter 2110, Government Code, does not apply to the  
10 advisory committee.

11       (n) The advisory committee is subject to Chapter 325,  
12 Government Code (Texas Sunset Act). Unless continued in existence  
13 as provided by that chapter, the committee is abolished and this  
14 section expires September 1, 2025.

15       Sec. 201.152. STAKEHOLDER ADVISORY COMMITTEES. (a) The  
16 commission shall establish one or more stakeholder advisory  
17 committees to make recommendations to the commission or department  
18 before the adoption of a rule, policy, or procedure affecting the  
19 stakeholders. An advisory committee has the purposes, powers, and  
20 duties prescribed by the commission.

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

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

- 25               (1) are selected from a list provided by the director;  
26               (2) have knowledge about and interests in the work of  
27 the advisory committee being established; and

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

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

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

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

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

14           Sec. 201.6016. PRIORITIZATION OF PROJECTS BY LOCAL  
15 TRANSPORTATION ENTITIES AND DEPARTMENT DISTRICTS. (a) The  
16 department shall work with all local transportation entities in the  
17 state to develop and adopt uniform guidelines governing the funding  
18 prioritization of the entities' transportation projects.

19           (b) The commission, in consultation with department staff,  
20 shall establish a project selection stakeholders advisory  
21 committee that represents diverse interests in the state. The  
22 committee is composed of:

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

25                   (A) 10 metropolitan planning organizations; and

26                   (B) 3 regional mobility authorities; and

27           (2) 10 department district engineers.

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

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

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

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

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

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

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

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

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

25       (g) Using the uniform standards established under this  
26 section, each local transportation entity and department district  
27 shall submit to the department the funding prioritization for

1 transportation projects in the entity's jurisdiction.

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

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

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

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



1 state infrastructure advisory committee.

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

4 (1) address safety, maintenance, congestion  
5 mitigation, and connectivity;

6 (2) provide assistance to urban and rural populations;

7 (3) provide regional balance;

8 (4) meet a high percentage of the infrastructure needs  
9 of a community;

10 (5) have available funding;

11 (6) are able to begin without significant delay; and

12 (7) include public participation in the planning  
13 process and public support for the project.

14 (f) In addition to criteria under Subsection (e), in  
15 prioritizing projects the department shall consider:

16 (1) the local contribution to be made to construct the  
17 project;

18 (2) the financial capacity of the entity responsible  
19 for the project to repay the obligation if the assistance is in the  
20 form of a loan;

21 (3) the ability to timely leverage state financial  
22 support with local and federal funding;

23 (4) whether there is an emergency need for the  
24 project;

25 (5) whether all preliminary planning and design work  
26 associated with the project necessary to reasonably predict cost,  
27 construction period, and benefits of the project have been

1 completed;

2 (6) whether all rights-of-way and easements necessary  
3 to begin construction have been acquired or approved;

4 (7) the start date for and certainty of the beginning  
5 of project construction;

6 (8) the demonstrated or projected impact on the  
7 community; and

8 (9) the priority given the project by the applicable  
9 local transportation entity under Section 201.6016.

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

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

18 (f) The department shall develop and implement performance  
19 metrics and performance measures as part of:

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

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

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

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

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

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

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

9           (4) demonstrate transparency and accountability.

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

13           (1) congestion reduction;

14           (2) safety enhancements;

15           (3) expansion of economic opportunity;

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

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

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

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

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

1 measures as satisfying the requirements imposed under this section.

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

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

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

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