

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Simmons, Pickett, Burkett, Phillips,  
Goldman, et al.

H.B. No. 20

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the operations of and transportation planning and  
3 expenditures by the Texas Department of Transportation and planning  
4 organizations.

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

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

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

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

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

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

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

24 (g) The department shall use and the commission shall review

1 performance metrics and measures to:

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

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

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

9 (4) demonstrate transparency and accountability; and

10 (5) address other issues the department considers  
11 necessary.

12 (h) The department shall develop and implement, and the  
13 commission shall approve, to the extent not in conflict with  
14 federal law, performance metrics and measures, including:

15 (1) congestion reduction;

16 (2) safety enhancements;

17 (3) expansion of economic opportunity;

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

20 (5) environmental considerations;

21 (6) system reliability;

22 (7) freight mobility;

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

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

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

27 (i) The requirement for the department to develop and

1 implement a performance-based planning and programming process  
2 does not replace or alter the requirement of the department to  
3 comply with the budgetary performance measures for each biennium as  
4 established in the General Appropriations Act. The department may  
5 not rely on its requirement to report budgetary performance  
6 measures as satisfying the requirements imposed under this section.

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

10 SECTION 2. Subchapter P, Chapter 201, Transportation Code,  
11 is amended by adding Section 201.9901 to read as follows:

12 Sec. 201.9901. DEFINITIONS. In this subchapter:

13 (1) "Planning organization" means:

14 (A) a metropolitan planning organization; or

15 (B) for an area that is not within the boundaries  
16 of a metropolitan planning organization, the department district  
17 that serves the area.

18 (2) "Region" means the area for which a planning  
19 organization develops plans under this subchapter.

20 SECTION 3. Subchapter P, Chapter 201, Transportation Code,  
21 is amended by adding Sections 201.999 and 201.9991 to read as  
22 follows:

23 Sec. 201.999. PRIORITIZATION OF PROJECTS BY PLANNING  
24 ORGANIZATIONS. (a) All planning organizations in the state shall  
25 develop, adopt, and submit to the department guidelines governing  
26 the funding prioritization of the organizations' transportation  
27 projects.

1       (b) In developing guidelines under Subsection (a), a  
2 planning organization shall at a minimum consider:

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

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

7           (3) the short-term and long-term viability of a  
8 project, including whether the project is a comprehensive solution  
9 with a measurable benefit;

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

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

15       (c) In prioritizing projects, each planning organization  
16 shall include projects that meet short-term and long-term needs of  
17 the organization's jurisdiction with emphasis given to projects  
18 already approved in a regional transportation plan.

19       (d) Each planning organization shall submit to the  
20 department the funding prioritization for transportation projects  
21 in the organization's jurisdiction.

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

27       (b) The department shall establish and the commission shall

1 approve a performance-based process for setting funding levels for  
2 the categories of projects in the department's unified  
3 transportation program.

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

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

14 (e) In scoring projects, the department shall consider  
15 projects that:

16 (1) address safety, maintenance, congestion  
17 mitigation, and connectivity;

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

19 (3) provide regional balance;

20 (4) meet a high percentage of the infrastructure needs  
21 of a community;

22 (5) have available funding;

23 (6) are able to begin without significant delay with  
24 consideration given to the time needed to purchase rights-of-way  
25 and complete environmental studies, if required;

26 (7) include public participation in the planning  
27 process and public support for the project;

1           (8) are in the state highway system; and

2           (9) meet other criteria adopted by the department.

3           (f) In addition to criteria under Subsection (e), in  
4 prioritizing projects the department shall consider other  
5 criteria, including:

6           (1) the local contribution to be made to construct the  
7 project;

8           (2) the financial capacity of the entity responsible  
9 for the project to repay the obligation if the assistance is in the  
10 form of a loan;

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

13           (4) whether there is an emergency need for the  
14 project;

15           (5) whether all preliminary planning and design work  
16 associated with the project necessary to reasonably predict cost,  
17 construction period, and benefits of the project have been  
18 completed;

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

21           (7) the start date for and certainty of the beginning  
22 of project construction;

23           (8) the demonstrated or projected impact on the  
24 community; and

25           (9) the priority given the project by the applicable  
26 planning organization under Section 201.999.

27           SECTION 4. (a) In this section:

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

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

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

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

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

13           (b-1) In making appointments under Subsection (b) of this  
14 section, the speaker and the lieutenant governor should consider  
15 members that reflect diverse constituencies with respect to:

- 16           (1) geographic areas in the state;
- 17           (2) urban and rural areas; and
- 18           (3) ethnicity.

19           (b-1) In making appointments under Subsection (b) of this  
20 section, the speaker and the lieutenant governor shall consider  
21 members that reflect diverse constituencies with respect to:

- 22           (1) geographic areas in the state;
- 23           (2) gender; and
- 24           (3) ethnicity.

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

1 joint chairs.

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

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

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

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

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

19 (5) performance metrics and measurement tools used by  
20 the department to evaluate the performance of a department project  
21 or program;

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

27 (7) any proposed rule, policy, program, or plan of the



1 commission or department of statewide significance;

2 (8) any possible benefits of utilizing zero-based  
3 budgeting principles; and

4 (9) any other matter the committee considers  
5 appropriate.

6 (e) Following consideration of the factors described by  
7 Subsection (d) of this section, the committees shall prepare a  
8 written report on the reviewed subjects and shall, not later than  
9 November 1, 2016, provide to the legislature the report.

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

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

1 section.

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

5 (i) This section expires January 13, 2017.

6 SECTION 5. This Act takes effect immediately if it receives  
7 a vote of two-thirds of all the members elected to each house, as  
8 provided by Section 39, Article III, Texas Constitution. If this  
9 Act does not receive the vote necessary for immediate effect, this  
10 Act takes effect September 1, 2015.

ADOPTED

MAY 27 2011

By: Simmon/Nichols

*Latoy*  
Secretary of State

H.B. No. 20

Substitute the following for H.B. No. 20 :

By: [Signature]

C.S. H.B. No. 20

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the operations of and transportation planning and  
3 expenditures by the Texas Department of Transportation and planning  
4 organizations.

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

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

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

14 (f) The commission by rule shall develop and implement  
15 performance metrics and performance measures as part of:

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

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

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

24 (g) The commission by rule shall adopt and shall

1 periodically review performance metrics and measures to:

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

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

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

9 (4) demonstrate transparency and accountability; and

10 (5) address other issues the commission considers  
11 necessary.

12 (h) The requirement for the commission to develop and  
13 implement a performance-based planning and programming process  
14 does not replace or alter the requirement of the commission or  
15 department to comply with the budgetary performance measures for  
16 each biennium as established in the General Appropriations Act. The  
17 commission may not rely on the satisfaction of the requirement to  
18 report budgetary performance measures as satisfying the  
19 requirements imposed under this section.

20 (i) The commission shall develop and implement periodic  
21 reporting schedules for all performance metrics and measures  
22 required under this section.

23 SECTION 2. Subchapter P, Chapter 201, Transportation Code,  
24 is amended by adding Section 201.9901 to read as follows:

25 Sec. 201.9901. DEFINITIONS. In this subchapter:

26 (1) "Planning organization" means:

27 (A) a metropolitan planning organization; or

1                   (B) for an area that is not within the boundaries  
2 of a metropolitan planning organization, the department district  
3 that serves the area.

4                   (2) "Project" means a connectivity or new capacity  
5 roadway project in the region of a planning organization. The term  
6 does not include a safety project, bridge project, federal  
7 discretionary project, maintenance project, or preservation  
8 project.

9                   (3) "Region" means the area for which a planning  
10 organization develops plans under this subchapter.

11                   (4) "Transportation official" means an official in a  
12 political subdivision who has responsibility for planning and  
13 implementation of transportation projects.

14                   SECTION 3. Subchapter P, Chapter 201, Transportation Code,  
15 is amended by adding Section 201.9911 to read as follows:

16                   Sec. 201.9911. PLANNING ORGANIZATION 10-YEAR PLAN. (a)  
17 Each planning organization shall develop a 10-year transportation  
18 plan for the use of the funding allocated to the region. The  
19 department shall assist the planning organizations by providing in  
20 a timely manner such information as is reasonably requested by the  
21 planning organizations.

22                   (b) The first four years of the plan shall be developed to  
23 meet the transportation improvement plan requirements of 23 U.S.C.  
24 Section 134 or 135, as applicable.

25                   (c) For an area that is not within the boundaries of a  
26 metropolitan planning organization, the department district shall  
27 develop the 10-year transportation plan with input from municipal

1 and county elected officials and transportation officials in the  
2 region.

3 SECTION 4. Subchapter P, Chapter 201, Transportation Code,  
4 is amended by adding Sections 201.9932 and 201.9991 to read as  
5 follows:

6 Sec. 201.9932. PROJECT RECOMMENDATION CRITERIA. Each  
7 planning organization shall develop its own project recommendation  
8 criteria, which must include consideration of:

9 (1) projected improvements to congestion and safety;

10 (2) projected effects on economic development  
11 opportunities for residents of the region;

12 (3) available funding;

13 (4) effects on the environment, including air quality;

14 (5) socioeconomic effects, including  
15 disproportionately high and adverse health or environmental  
16 effects on minority or low-income neighborhoods; and

17 (6) any other factors deemed appropriate by the  
18 planning organization.

19 Sec. 201.9991. PRIORITIZATION AND APPROVAL OF PROJECTS BY  
20 COMMISSION. (a) The commission by rule shall prioritize and  
21 approve projects included in the statewide transportation plan  
22 under Section 201.601 in order to provide financial assistance  
23 under this chapter.

24 (b) The commission by rule shall establish a  
25 performance-based process for setting funding levels for the  
26 categories of projects in the department's unified transportation  
27 program.

1           (c) The commission by rule shall establish a scoring system  
2 for prioritizing projects for which financial assistance is sought  
3 from the commission by planning organizations. The criteria used to  
4 score projects must take into consideration the department's  
5 strategic goals as approved by the commission. The system must  
6 account for the diverse needs of the state so as to fairly allocate  
7 funding to all regions of the state.

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

11           SECTION 5. Section 223.241, Transportation Code, is amended  
12 by adding Subdivision (3) to read as follows:

13           (3) "Highway project" means:

14                   (A) a single highway facility between two defined  
15 points in a corridor; or

16                   (B) two or more contiguous highway facilities.

17           SECTION 6. Section 223.242, Transportation Code, is amended  
18 by adding Subsections (b-1), (f), and (g) and amending Subsections  
19 (d) and (d-1) to read as follows:

20           (b-1) A design-build contract under this subchapter may  
21 include a maintenance agreement requiring a design-build  
22 contractor to maintain a project for an initial term of not longer  
23 than five years. The maintenance agreement may authorize the  
24 department, in its sole discretion, to exercise options extending  
25 the term of the maintenance agreement for additional periods beyond  
26 the initial maintenance term with each additional period being not  
27 longer than five years. The department shall obtain pricing for the

1 maintenance work for each maintenance term. The department may  
2 require separate pricing for the maintenance work to be performed  
3 for each year of a maintenance term.

4 (d) The department may enter into a design-build contract  
5 for a highway project with a construction cost estimate of \$250  
6 [~~\$50~~] million or more to the department.

7 (d-1) The department may not enter into more than three  
8 contracts under this section in each fiscal year [~~. This subsection~~  
9 ~~expires August 31, 2015~~].

10 (f) The department shall not use the design-build method for  
11 the construction, expansion, extension, rehabilitation,  
12 alteration, or repair of a highway project if the project is  
13 substantially designed by the department or another entity other  
14 than the design-build contractor.

15 (g) The department shall not include more than one highway  
16 project in a design-build contract.

17 SECTION 7. (a) In this section:

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

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

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

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

27 (2) the lieutenant governor shall appoint five members



1 to a Senate Select Committee on Transportation Planning and  
2 designate one member as chair.

3 (b-1) In making appointments under Subsection (b) of this  
4 section, the speaker and the lieutenant governor should consider  
5 members that reflect diverse constituencies with respect to:

- 6 (1) geographic areas in the state;
- 7 (2) urban and rural areas; and
- 8 (3) ethnicity.

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

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

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

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

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

27 (4) the use and utilization of alternative methods of

1 financing that have been authorized by the legislature for  
2 projects;

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

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

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

13 (8) any possible benefits of utilizing zero-based  
14 budgeting principles; and

15 (9) any other matter the committee considers  
16 appropriate.

17 (e) Following consideration of the factors described by  
18 Subsection (d) of this section, the committees shall prepare a  
19 written report on the reviewed subjects and shall, not later than  
20 November 1, 2016, provide to the legislature the report.

21 (f) The committees established under this section may  
22 exercise any power of a committee of their respective chambers and  
23 any powers of a joint committee. For the purposes of this section,  
24 the committees established under this section are considered a  
25 joint committee and the cost of operation of each committee may be  
26 borne in the same manner as the cost of a joint committee. The Texas  
27 Legislative Council shall provide funding for the operations of the

1 committees. To the extent not inconsistent with this section, the  
2 joint rules adopted by the 84th Legislature for the administration  
3 of joint interim legislative study committees apply to the  
4 committees established under this section.

5 (g) Not later than December 1, 2015, the department shall  
6 submit an initial report to the select committees. The report shall  
7 provide information necessary for the select committees to review,  
8 study, and evaluate the factors described by Subsections (d)(1),  
9 (2), and (3) of this section. Not later than May 31, 2016, the  
10 department shall submit to the select committees a preliminary  
11 report on the remaining factors described by Subsection (d) of this  
12 section.

13 (h) This section expires January 9, 2017.

14 SECTION 8. (a) Section 223.242(b-1), Transportation Code,  
15 as added by this Act, applies only to a contract entered into on or  
16 after the effective date of this Act. A contract entered into  
17 before that date is governed by the law as it existed on the date the  
18 contract was entered into, and that law is continued in effect for  
19 that purpose.

20 (b) Sections 223.242(f) and (g), Transportation Code, as  
21 added by this Act, apply only to a highway project for which a  
22 request for qualifications is issued on or after the effective date  
23 of this Act. A highway project for which a request for  
24 qualifications is issued before the effective date of this Act is  
25 governed by the law in effect on the date the request for  
26 qualifications was issued, and that law is continued in effect for  
27 that purpose.

1           SECTION 9. This Act takes effect immediately if it receives  
2 a vote of two-thirds of all the members elected to each house, as  
3 provided by Section 39, Article III, Texas Constitution. If this  
4 Act does not receive the vote necessary for immediate effect, this  
5 Act takes effect August 31, 2015.

ADOPTED

MAY 27 2015

*Robert J. Nichols*  
*Robert J. Nichols*  
BY: \_\_\_\_\_  
Secretary of the Senate

FLOOR AMENDMENT NO. 1

1 Amend C.S.H.B. No. 20 (senate committee printing) as  
2 follows:

3 (1) In SECTION 1 of the bill, in added Section  
4 201.809(g)(1), Transportation Code (page 1, line 46), between  
5 "operating" and the underscored semicolon, insert "in accordance  
6 with the requirements of 23 U.S.C. Section 134 or 135, as  
7 applicable".

8 (2) In SECTION 4 of the bill, in added Section  
9 201.9991(c), Transportation Code (page 2, line 69), between  
10 "commission" and the underscored period, insert "in accordance  
11 with the requirements of 23 U.S.C. Section 134 or 135, as  
12 applicable".

13 (3) In SECTION 6 of the bill, in amended Section  
14 223.242(d), Transportation Code (page 3, line 27), by striking  
15 "\$250" and substituting "\$150".

16 (4) In SECTION 6 of the bill, in added Section 223.242(f),  
17 Transportation Code (page 3, line 35), between "substantially  
18 designed" and "by the department", insert ", to the extent  
19 described by Section 223.246(a)(5),".

20 (5) In SECTION 7 of the bill, in Subsection (g) (page 4,  
21 line 39), strike "December" and substitute "September".

22 (6) In SECTION 7 of the bill, in Subsection (g) (page 4,  
23 line 43), strike "May 31" and substitute "March 31".

# ADOPTED

MAY 27 2015

FLOOR AMENDMENT NO. 3

*Leta Spaw* BY: *Clay*  
Secretary of the Senate

1 Amend C.S.H.B. No. 20 (senate committee report) by adding  
2 the following appropriately numbered SECTION to the bill and  
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION \_\_\_\_ . Section 222.001(a), Transportation Code, is  
5 amended to read as follows:

6 (a) Money that is required to be used for public roadways  
7 by the Texas Constitution or federal law and that is deposited  
8 in the state treasury to the credit of the state highway fund,  
9 including money deposited to the credit of the state highway  
10 fund under Title 23, United States Code, may be used only:

11 (1) to improve the state highway system; or

12 (2) to mitigate adverse environmental effects that  
13 result directly from construction or maintenance of a state  
14 highway by the department [~~or~~

15 [~~(3) by the Department of Public Safety to police the~~  
16 ~~state highway system and to administer state laws relating to~~  
17 ~~traffic and safety on public roads].~~

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**May 28, 2015**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB20** by Simmons (Relating to the operations of and transportation planning and expenditures by the Texas Department of Transportation and planning organizations.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB20, As Passed 2nd House: a negative impact of (\$1,122,120,364) through the biennium ending August 31, 2017.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2016	(\$561,060,182)
2017	(\$561,060,182)
2018	(\$561,060,182)
2019	(\$561,060,182)
2020	(\$561,060,182)

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from <i>General Revenue Fund</i> 1</b>	<b>Probable Savings/(Cost) from <i>State Highway Fund</i> 6</b>
2016	(\$561,060,182)	\$561,060,182
2017	(\$561,060,182)	\$561,060,182
2018	(\$561,060,182)	\$561,060,182
2019	(\$561,060,182)	\$561,060,182
2020	(\$561,060,182)	\$561,060,182

**Fiscal Analysis**

The bill would amend Transportation Code Section 222.001(a), relating to the use of money in the State Highway Fund that is required to be used for public roadways by the Texas Constitution or federal law, to remove from the list of permissible uses the policing of the state highway system

and the administration of state laws relating to traffic and safety on public roads by the Department of Public Safety (DPS).

The bill would amend Section 201.809, Transportation Code, to require the Texas Transportation Commission (TTC) by rule to develop and implement a performance-based planning and programming process that would provide the governor and the Legislature with indicators that quantify and qualify progress toward attaining all of the goals and objectives established for the department by the Legislature and the commission. The bill would require TTC by rule to develop and implement certain performance metrics and measures and implement period reporting schedules for all metrics and measures prescribed by the bill.

The bill would require local transportation organizations in the state to develop a 10-year plan for the use of funding allocated to the region for which the organization develops plans under Subchapter P, Chapter 201 of the Transportation Code. The bill would require the Texas Department of Transportation (TxDOT) to assist the planning organizations by providing information as is reasonably requested by the planning organizations.

The bill would amend the Section 223.242 of the Transportation Code to specify that the Texas Department of Transportation (TxDOT) may enter into a design-build contract for a highway project with a construction cost estimate of \$150 million or more to the department rather than \$50 million or more under current law. The bill would repeal the August 31, 2015, expiration date on the provision that prohibits TxDOT from entering into more than three design-build contracts in a fiscal year. The bill would stipulate that a maintenance agreement requiring a design-build contractor to maintain a project may have an initial term of not longer than five years.

The bill would establish a nine-member House Select Committee on Transportation Planning and a five-member Senate Select Committee on Transportation Planning and require the Speaker of the House and the Lieutenant Governor to appoint the members and designate the chairs of their chambers' respective committees not later than the earlier of 30 days after the bill takes effect or September 1, 2015. The bill would require the select committees, meeting jointly or separately, to review, study, and evaluate certain aspects of transportation funding, project selection and prioritization, performance measures and metrics, and policymaking; and, not later than November 1, 2016, jointly adopt and provide a written report of recommendations on the reviewed subjects to the Legislature. The bill would require TxDOT to submit a report to the select committees that provides information necessary for those committees to review certain factors under the committees' charges.

The bill would take effect immediately upon receiving a vote of two-thirds of the members elected to each house or otherwise on August 13, 2015.

## **Methodology**

The bill would have no effect on revenue collections from constitutionally dedicated sources deposited to the State Highway Fund (SHF). However, beginning in fiscal year 2016, the bill would exclude from the authorized uses of these funds the policing and administration of laws pertaining to the supervision of traffic and safety on public roadways, which is the responsibility of the Department of Public Safety (DPS). State Highway Fund appropriations for DPS (including employee benefits) total \$1,115,227,801 for the 2014-15 biennium. Using that amount as a basis for DPS funding levels for the 2016-17 fiscal biennium and beyond, this analysis assumes an average appropriation of \$557.6 million per fiscal year from the General Revenue Fund instead of the SHF would be made to DPS beginning in fiscal year 2016 resulting in a cost to General Revenue and savings to the SHF beginning in fiscal year 2016.



DPS also refers administrative license revocation (ALR) cases to the State Office of Administrative Hearings (SOAH), for which SOAH is appropriated \$6,892,563 (including employee benefits) from the SHF for the 2014-15 biennium. Because the proposed bill would prohibit this method of financing beginning in the 2016-17 biennium, this analysis assumes that total appropriations for ALR cases would continue at similar levels in each biennium and General Revenue would be appropriated instead of SHF, resulting in an average annual cost of \$3,446,282 to General Revenue and an equal amount of savings to the SHF beginning in fiscal year 2016.

Based on the information provided by TxDOT, it is assumed any costs or duties associated with implementing the provisions of the bill could be absorbed within existing resources.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 601 Department of Transportation

**LBB Staff:** UP, AG, NV, TG

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**May 18, 2015**

**TO:** Honorable Robert Nichols, Chair, Senate Committee on Transportation

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB20** by Simmons (Relating to the operations of and transportation planning and expenditures by the Texas Department of Transportation and planning organizations.),  
**Committee Report 2nd House, Substituted**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
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The bill would amend Section 201.809, Transportation Code, to require the Texas Transportation Commission (TTC) by rule to develop and implement a performance-based planning and programming process that would provide the governor and the Legislature with indicators that quantify and qualify progress toward attaining all of the goals and objectives established for the department by the Legislature and the commission. The bill would require TTC by rule to develop and implement certain performance metrics and measures and implement period reporting schedules for all metrics and measures prescribed by the bill.

The bill would require local transportation organizations in the state to develop a 10-year plan for the use of funding allocated to the region for which the organization develops plans under Subchapter P, Chapter 201 of the Transportation Code. The bill would require the Texas Department of Transportation (TxDOT) to assist the planning organizations by providing information as is reasonably requested by the planning organizations.

The bill would amend the Section 223.242 of the Transportation Code to specify that the Texas Department of Transportation (TxDOT) may enter into a design-build contract for a highway project with a construction cost estimate of \$250 million or more to the department rather than \$50 million or more under current law. The bill would repeal the August 31, 2015, expiration date on the provision that prohibits TxDOT from entering into more than three design-build contracts in a fiscal year. The bill stipulate that a maintenance agreement requiring a design-build contractor to maintain a project may have an initial term of not longer than five years.

The bill would establish a nine-member House Select Committee on Transportation Planning and a five-member Senate Select Committee on Transportation Planning and require the Speaker of the House and the Lieutenant Governor to appoint the members and designate the chairs of their chambers' respective committees not later than the earlier of 30 days after the bill takes effect or September 1, 2015. The bill would require the select committees, meeting jointly or separately, to review, study, and evaluate certain aspects of transportation funding, project selection and prioritization, performance measures and metrics, and policymaking; and, not later than November 1, 2016, jointly adopt and provide a written report of recommendations on the reviewed subjects to the Legislature. The bill would require TxDOT to submit a report to the select committees that provides information necessary for those committees to review certain factors

under the committees' charges.

Based on the information provided by TxDOT, it is assumed any costs or duties associated with implementing the provisions of the bill could be absorbed within existing resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 601 Department of Transportation

**LBB Staff:** UP, AG, NV, TG

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**May 7, 2015**

**TO:** Honorable Robert Nichols, Chair, Senate Committee on Transportation

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB20** by Simmons (Relating to the operations of and transportation planning and expenditures by the Texas Department of Transportation and planning organizations.), **As Engrossed**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
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The bill would amend the Transportation Code to require the Texas Department of Transportation (TxDOT) to develop and implement, and the Texas Transportation Commission (TTC) to approve, a performance-based planning and programming process that would provide the governor and the Legislature with indicators that quantify and qualify progress toward attaining all of the goals and objectives established for the department by the Legislature and the commission. The bill would require TxDOT and TTC to develop and implement certain performance metrics and measures and implement period reporting schedules for all metrics and measures prescribed by the bill. The bill would require planning organizations in the state to develop, adopt, and submit to TxDOT guidelines governing the funding prioritization of the organizations' transportation projects.

The bill would establish a nine-member House Select Committee on Transportation Planning and a nine-member Senate Select Committee on Transportation Planning and require the Speaker of the House and the Lieutenant Governor to appoint the members and designate the chairs of their chambers' respective committees not later than the earlier of 30 days after the bill takes effect or September 1, 2015. The bill would require the select committees, meeting jointly or separately, to review, study, and evaluate certain aspects of transportation funding, project selection and prioritization, performance measures and metrics, and policymaking; and, not later than November 1, 2016, jointly adopt and provide a written report of recommendations on the reviewed subjects to the Legislature. The bill would require TxDOT to submit a report to the select committees that provides information necessary for those committees to review certain factors under the committees' charges. Provisions establishing the select committees and their charges would expire on January 13, 2017.

Based on the information provided by TxDOT, it is assumed any costs or duties associated with implementing the provisions of the bill could be absorbed within existing resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 601 Department of Transportation

**LBB Staff:** UP, AG, NV, TG

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**April 23, 2015**

**TO:** Honorable Joseph Pickett, Chair, House Committee on Transportation

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** **HB20** by Simmons (Relating to the operations of and transportation planning and expenditures by the Texas Department of Transportation and local transportation entities.), **Committee Report 1st House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Transportation Code to require the Texas Department of Transportation (TxDOT) to develop and implement, and the Texas Transportation Commission (TTC) to approve, a performance-based planning and programming process that would provide the governor and the Legislature with indicators that quantify and qualify progress toward attaining all of the goals and objectives established for the department by the Legislature and the commission. The bill would require TxDOT and TTC to develop and implement certain performance metrics and measures and implement period reporting schedules for all metrics and measures prescribed by the bill. The bill would require local transportation entities in the state to develop, adopt, and submit to TxDOT guidelines governing the funding prioritization of the entities' transportation projects.

The bill would establish a nine-member House Select Committee on Transportation Planning and a nine-member Senate Select Committee on Transportation Planning and require the Speaker of the House and the Lieutenant Governor to appoint the members and designate the chairs of their chambers' respective committees not later than the earlier of 30 days after the bill takes effect or September 1, 2015. The bill would require the select committees, meeting jointly or separately, to review, study, and evaluate certain aspects of transportation funding, project selection and prioritization, performance measures and metrics, and policymaking; and, not later than November 1, 2016, jointly adopt and provide a written report of recommendations on the reviewed subjects to the Legislature. The bill would require TxDOT to submit a report to the select committees that provides information necessary for those committees to review certain factors under the committees' charges. Provisions establishing the select committees and their charges would expire on January 13, 2017.

Based on the information provided by TxDOT, it is assumed any costs or duties associated with implementing the provisions of the bill could be absorbed within existing resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 601 Department of Transportation

**LBB Staff:** UP, AG, NV, TG

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**March 24, 2015**

**TO:** Honorable Joseph Pickett, Chair, House Committee on Transportation

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB20** by Simmons (Relating to the operations of and transportation planning and expenditures by the Texas Department of Transportation and local transportation entities.), **As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would establish a State Infrastructure Advisory Committee (SIAC) composed of three Senate members appointed by the Lieutenant Governor and three House members appointed by the Speaker of the House. The bill would require certain TxDOT senior staff and the staff of the Texas Transportation Commission (TTC) to serve as staff support for the committee. The SIAC would be authorized to hold public hearings, formal meetings, or work sessions at any time. The bill would require the SIAC to submit a report to the TTC regarding transportation funding, project selection, and financing matters for use by the TTC. TxDOT would be required, on the recommendation of the SIAC, to enter into a contract with an independent firm for a forensic audit of the actions of TxDOT or the TTC in an area of interest determined by the committee.

The bill would require TTC to establish one or more stakeholder advisory committees to make recommendations to TTC or TxDOT before the adoption of a rule, policy, or procedure affecting the stakeholders and require advisory committee meetings to be made accessible to the public in person or through electronic means.

The bill would require TxDOT to work with all local transportation entities in the state to develop and adopt uniform guidelines governing the funding prioritization of the entities' transportation projects. The bill would require the TTC to establish a project selection stakeholders advisory committee, composed of representatives from metropolitan planning organizations and regional mobility authorities and TxDOT District Engineers, to review proposed guidelines from each local transportation entity and recommend to TxDOT uniform guidelines for adoption and approval by the TTC. Each local transportation entity and TxDOT district would be required to submit to TxDOT the funding prioritization for transportation projects in the entity's jurisdiction using the uniform guidelines.

The bill would require TxDOT to establish and the TTC to approve a performance-based process for setting category funding levels in TxDOT's Unified Transportation Program (UTP). The bill would require TxDOT to consider a zero-based budget approach to address safety, maintenance, congestion, connectivity, economic development, and other needs. The bill would require TxDOT to develop and the TTC to approve a point system for prioritization of projects for which financial assistance is sought from the commission. The bill would prohibit TxDOT and the TTC from approving a deviation from TxDOT's selection of projects for funding of more than 10 percent of



TxDOT's current biennial budget. The bill would require the SIAC to review a deviation before the TTC could take action on the deviation.

The bill would require TxDOT to develop and implement a performance-based planning and programming process, to be approved by the TTC, to provide the executive and legislative branches of government with indicators to assess progress toward attaining all department goals and objectives established by the Legislature and the TTC.

Information provided by TxDOT indicates that implementation of the bill would require the allocation of additional personnel and resources to transportation project selection and programming activities. It is assumed TxDOT would also incur additional costs to contract with independent firms to conduct forensic audits at the direction of the SIAC. The amount of additional costs to TxDOT would depend on the manner in which TxDOT and the SIAC execute the responsibilities prescribed by the bill, and it is assumed any costs or duties associated with implementation could be absorbed within existing resources.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 116 Sunset Advisory Commission, 601 Department of Transportation

**LBB Staff:** UP, AG, NV, TG