

House Bill 20
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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, 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;

SENATE VERSION (IE)

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

(e) The commission by rule shall develop and implement 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 commission by rule shall develop and 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 commission by rule shall adopt and shall periodically review performance metrics and measures to:

(1) assess how well the transportation system is performing and operating in accordance with the requirements of 23 U.S.C. Section 134 or 135, as applicable; [FA1(1)]

(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;

CONFERENCE

House Bill 20
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

(4) demonstrate transparency and accountability; and
(5) address other issues the department considers necessary.

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

- (1) congestion reduction;
- (2) safety enhancements;
- (3) expansion of economic opportunity;
- (4) preservation of the value of existing transportation assets;
- (5) environmental considerations;
- (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 periodic reporting schedules for all performance metrics and measures required under this section.

SENATE VERSION (IE)

(4) demonstrate transparency and accountability; and
(5) address other issues the commission considers necessary.

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

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

CONFERENCE

House Bill 20
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

Sec. 201.9901. DEFINITIONS. In this subchapter:

(1) "Planning organization" means:

(A) a metropolitan planning organization; or

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

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

No equivalent provision.

SENATE VERSION (IE)

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

Sec. 201.9901. DEFINITIONS. In this subchapter:

(1) "Planning organization" means:

(A) a metropolitan planning organization; or

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

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

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

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

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

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

CONFERENCE

House Bill 20
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

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

(c) For an area that is not within the boundaries of a metropolitan planning organization, the department district shall develop the 10-year transportation plan with input from municipal and county elected officials and transportation officials in the region.

SECTION 3. 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 PLANNING ORGANIZATIONS. (a) All planning organizations in the state shall develop, adopt, and submit to the department guidelines governing the funding prioritization of the organizations' transportation projects.

(b) In developing guidelines under Subsection (a), a planning organization 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 short-term and long-term viability 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

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

House Bill 20
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

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

No equivalent provision.

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 plan under Section 201.601 in order to provide financial assistance under this chapter.

SENATE VERSION (IE)

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

- (1) projected improvements to congestion and safety;
- (2) projected effects on economic development opportunities for residents of the region;
- (3) available funding;
- (4) effects on the environment, including air quality;
- (5) socioeconomic effects, including disproportionately high and adverse health or environmental effects on minority or low-income neighborhoods; and
- (6) any other factors deemed appropriate by the planning organization.

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

CONFERENCE

House Bill 20
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

(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 planning organizations. 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 consider 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 with consideration given to the time needed to purchase rights-of-way and complete environmental studies, if required;

SENATE VERSION (IE)

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

(c) The commission by rule shall establish a scoring system for prioritizing projects for which financial assistance is sought from the commission by planning organizations. The criteria used to score projects must take into consideration the department's strategic goals as approved by the commission in accordance with the requirements of 23 U.S.C. Section 134 or 135, as applicable. The system must account for the diverse needs of the state so as to fairly allocate funding to all regions of the state. [FA1(2)]

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

CONFERENCE

House Bill 20
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

(7) include public participation in the planning process and public support for the project;
(8) are in the state highway system; and
(9) meet other criteria adopted by the department.

(f) In addition to criteria under Subsection (e), in prioritizing projects the department shall consider other criteria, including:
(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 planning organization under Section 201.999.

No equivalent provision.

SENATE VERSION (IE)

CONFERENCE

SECTION __. Section 222.001(a), Transportation Code, is amended to read as follows:
(a) Money that is required to be used for public roadways by the Texas Constitution or federal law and that is deposited in

House Bill 20
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

the state treasury to the credit of the state highway fund, including money deposited to the credit of the state highway fund under Title 23, United States Code, may be used only:

- (1) to improve the state highway system; ~~or~~
- (2) to mitigate adverse environmental effects that result directly from construction or maintenance of a state highway by the department; ~~or~~
- ~~[(3) by the Department of Public Safety to police the state highway system and to administer state laws relating to traffic and safety on public roads]. [FA3]~~

No equivalent provision.

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

- (3) "Highway project" means:
 - (A) a single highway facility between two defined points in a corridor; or
 - (B) two or more contiguous highway facilities.

No equivalent provision.

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

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

House Bill 20
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

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

(d) The department may enter into a design-build contract for a highway project with a construction cost estimate of \$150 ~~[\$50]~~ million or more to the department. [FA1(3)]

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

(f) The department shall not use the design-build method for the construction, expansion, extension, rehabilitation, alteration, or repair of a highway project if the project is substantially designed, to the extent described by Section 223.246(a)(5), by the department or another entity other than the design-build contractor. [FA1(4)]

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

SECTION 4. (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 five members to a Senate Select Committee on Transportation Planning and

SECTION 7. (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 five members to a Senate Select Committee on Transportation Planning and

House Bill 20
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

designate one member as chair.

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

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

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

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

(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;

SENATE VERSION (IE)

designate one member as chair.

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

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

(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;

CONFERENCE

House Bill 20
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

- (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;
- (7) any proposed rule, policy, program, or plan of the commission or department of statewide significance;
- (8) any possible benefits of utilizing zero-based budgeting principles; and
- (9) any other matter the committee considers appropriate.

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

(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

SENATE VERSION (IE)

- (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;
- (7) any proposed rule, policy, program, or plan of the commission or department of statewide significance;
- (8) any possible benefits of utilizing zero-based budgeting principles; and
- (9) any other matter the committee considers appropriate.

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

(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

CONFERENCE

House Bill 20
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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**.

No equivalent provision.

SENATE VERSION (IE)

Legislative Council **shall** 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 **March 31, 2016**, the department shall submit to the select committees a preliminary report on the remaining factors described by Subsection (d) of this section. [FA1(5)-(6)]

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

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

(b) Sections 223.242(f) and (g), Transportation Code, as added by this Act, apply only to a highway project for which a request for qualifications is issued on or after the effective

CONFERENCE

House Bill 20
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 5. 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.

SENATE VERSION (IE)

date of this Act. A highway project for which a request for qualifications is issued before the effective date of this Act is governed by the law in effect on the date the request for qualifications was issued, and that law is continued in effect for that purpose.

SECTION 9. 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 August 31, 2015.

CONFERENCE