

By: Gonzales of Williamson

H.B. No. 3955

A BILL TO BE ENTITLED

AN ACT

relating to the functions of the Texas Department of Transportation relating to transportation planning and projects.

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

SECTION 1. Sections 201.601(a-1) and (d), Transportation Code, are amended to read as follows:

(a-1) The plan must:

(1) contain specific and clearly defined transportation system strategies, long-term transportation goals for the state and measurable targets for each goal, and other related performance measures;

(2) identify priority corridors, projects, or areas of the state that are of particular concern to the department in meeting the goals established under Subdivision (1); and

(3) contain a participation plan specifying methods for obtaining formal input on the goals and priorities identified under this subsection from:

(A) other state agencies;

(B) political subdivisions;

(C) local transportation entities; and

(D) the general public.

(d) In selecting transportation projects, the ~~[The]~~ department shall consider the transportation system strategies, goals and measurable targets, and other related performance

1 measures established under Subsection (a-1)(1) [~~in selecting~~
2 ~~transportation projects~~].

3 SECTION 2. Section 201.6015, Transportation Code, is
4 amended to read as follows:

5 Sec. 201.6015. INTEGRATION OF PLANS AND POLICY EFFORTS. In
6 developing each of its transportation plans and policy efforts, the
7 department must:

8 (1) clearly reference the statewide transportation
9 plan under Section 201.601;

10 (2) include in the plan or policy effort the
11 transportation system strategies, goals and measurable targets,
12 and other related performance measures established under Section
13 201.601(a-1)(1); and

14 (3) [~~and~~] specify how the plan or policy effort
15 supports [~~or otherwise relates to~~] the specific goals established
16 under Section 201.601(a-1)(1) [~~that section~~].

17 SECTION 3. Section 201.807, Transportation Code, is amended
18 by amending Subsection (a) and adding Subsections (g) and (h) to
19 read as follows:

20 (a) In this section, "department project" means a highway
21 project under the jurisdiction of the department, including a
22 grouped rehabilitation and preventive maintenance project, that:

23 (1) is being developed or is under construction; and

24 (2) is identified in the district project portfolio
25 [~~work program~~] required under Section 201.998.

26 (g) The department shall:

27 (1) conduct a comprehensive review of the project

1 information reporting system;

2 (2) in conducting the review required by Subdivision
3 (1), incorporate feedback from internal and external users of the
4 system and advice from the department office responsible for public
5 involvement; and

6 (3) develop a plan for implementing any needed
7 improvements to the system.

8 (h) The department shall conduct the review required by
9 Subsection (g)(1) on a regular basis, as specified by commission
10 rule.

11 SECTION 4. Subchapter J, Chapter 201, Transportation Code,
12 is amended by adding Section 201.8075 to read as follows:

13 Sec. 201.8075. STATEWIDE TRANSPORTATION PLAN DASHBOARD.

14 (a) In this section, "dashboard" means a web-based data
15 visualization tool that provides an analysis and visual
16 representation of key performance measures relevant to a particular
17 objective.

18 (b) The department shall develop and prominently display on
19 the department's Internet website a dashboard that clearly
20 communicates to the public:

21 (1) the transportation system strategies, goals and
22 measurable targets, and other related performance measures
23 established under Section 201.601(a-1)(1); and

24 (2) the department's progress, including trends over
25 time, in meeting the strategies, goals and targets, and other
26 related performance measures described by Subdivision (1).

27 (c) The dashboard must be in a format that is easy to

1 navigate.

2 (d) The department shall:

3 (1) regularly update the information displayed on the
4 dashboard; and

5 (2) publish on the department's Internet website the
6 methodology and data used to determine the department's progress
7 under Subsection (b)(2).

8 SECTION 5. Section [201.808](#), Transportation Code, is amended
9 by adding Subsection (i) to read as follows:

10 (i) The department shall:

11 (1) conduct a comprehensive analysis regarding the
12 effect of funding allocations made to funding categories described
13 by Section [201.991\(b\)](#) and project selection decisions on
14 accomplishing the goals described in the statewide transportation
15 plan under Section [201.601](#);

16 (2) provide the analysis to metropolitan planning
17 organizations, the public, and each member of the commission for
18 the purpose of informing deliberations on funding decisions for the
19 unified transportation program under Section [201.991](#);

20 (3) update the analysis as part of:

21 (A) the department's annual update to the unified
22 transportation program under Section [201.992](#) and any other formal
23 update to that program; and

24 (B) the evaluation and report required by Section
25 [201.809](#);

26 (4) promptly publish the analysis on the department's
27 Internet website in its entirety and in summary form; and

1 (5) publish the methodology and data used to create
2 the analysis on the department's Internet website and make the
3 methodology and data available to the metropolitan planning
4 organizations, the public, and the commission under Subdivision
5 (2).

6 SECTION 6. Section 201.809(a), Transportation Code, is
7 amended to read as follows:

8 (a) The department annually shall evaluate and publish a
9 report about the status of each transportation goal for this
10 state. The department shall also promptly publish the report on
11 the department's Internet website in summary form. The report must
12 include:

13 (1) information about the progress of each long-term
14 transportation goal that is identified by the statewide
15 transportation plan;

16 (2) the status of each project identified as a major
17 priority;

18 (3) a summary of the number of statewide project
19 implementation benchmarks that have been completed; ~~and~~

20 (4) information about the accuracy of previous
21 department financial forecasts; and

22 (5) the analysis required by Section 201.808(i).

23 SECTION 7. Section 201.991, Transportation Code, is amended
24 by adding Subsections (b-1) and (e) and amending Subsection (d) to
25 read as follows:

26 (b-1) The commission by rule shall:

27 (1) adopt a policy comprehensively explaining the

1 department's approach to public involvement and transparency
2 related to the unified transportation program; and

3 (2) require the department to, at a minimum, make a
4 report on any change to the unified transportation program
5 available on the department's Internet website and provide the
6 report to the commission in a public meeting, regardless of any
7 rules adopted for public hearings and approvals.

8 (d) In developing the rules required by Subsection (b) [~~this~~
9 ~~section~~], the commission shall collaborate with local
10 transportation entities.

11 (e) In developing the policy required by Subsection
12 (b-1)(1), the commission shall collaborate with stakeholders.

13 SECTION 8. Section 201.992(b), Transportation Code, is
14 amended to read as follows:

15 (b) The annual update must include:

16 (1) the annual funding forecast required by Section
17 201.993;

18 (2) the list of major transportation projects required
19 by Section 201.994(b); [~~and~~]

20 (3) the category to which the project has been
21 assigned and the priority of the project in the category under
22 Section 201.995; and

23 (4) the analysis required by Section 201.808(i).

24 SECTION 9. Section 201.995, Transportation Code, is amended
25 by adding Subsection (d) to read as follows:

26 (d) In prioritizing and approving projects under Section
27 201.9991 that are included in the unified transportation program,

1 the commission must first evaluate projects on strategic need and
2 potential contribution toward meeting the transportation goals
3 established under Section 201.601(a-1)(1). After conducting that
4 initial evaluation, the commission may conduct a secondary
5 evaluation based on other factors such as funding availability and
6 project readiness.

7 SECTION 10. Section 201.998, Transportation Code, is
8 amended to read as follows:

9 Sec. 201.998. DISTRICT PROJECT PORTFOLIOS [~~WORK PROGRAM~~].

10 (a) Each department district shall develop a consistently
11 formatted project portfolio [~~work program~~] based on the unified
12 transportation program covering a period of at least four years
13 that contains all projects that the district proposes to implement
14 during that period.

15 (b) The department shall develop comprehensive performance
16 measures for key steps in the project development process for
17 projects included in each district's project portfolio. The
18 department shall use the performance measures developed under this
19 subsection to track and report whether each district is:

20 (1) developing an appropriate mix of projects; and
21 (2) on track to meet letting targets that are
22 consistent with applicable department policy governing when a
23 project should be bid on for a contract awarded by the department
24 [~~work program must contain:~~

25 [~~(1) information regarding the progress of projects~~
26 ~~designated as major transportation projects, according to project~~
27 ~~implementation benchmarks and timelines established under Section~~

1 ~~201.994~~, and

2 ~~[(2) a summary of the progress on other district~~
3 ~~projects].~~

4 (c) The department shall conduct a review of project
5 development activities in each district's project portfolio on a
6 regular basis and use the review ~~[use the work program]~~ to~~+~~

7 ~~[(1)]~~ monitor and evaluate the performance of each
8 ~~[the] district[, and~~

9 ~~[(2) evaluate the performance of district employees].~~

10 (d) In conducting the review required by Subsection (c), the
11 ~~[The] department shall, when appropriate, seek input from key
12 stakeholders such as local government project sponsors or
13 metropolitan planning organizations ~~[publish the work program in~~
14 ~~appropriate media and on the department's Internet website].~~~~

15 (e) The commission shall adopt rules as necessary to
16 administer this section.

17 (f) The commission shall adopt and regularly update rules:

18 (1) governing the overall planning, review, and
19 monitoring process created by this section;

20 (2) specifying how planning and project stakeholders
21 can become involved in the process described by Subdivision (1);
22 and

23 (3) requiring the department to regularly report
24 results under this section to the commission and the public and
25 specifying the method for reporting those results.

26 (g) The commission shall consult a stakeholder group before
27 adopting or updating rules under Subsection (f).

1 SECTION 11. Section 201.9991(a), Transportation Code, is
2 amended to read as follows:

3 (a) The commission by rule shall prioritize and approve
4 projects included in the statewide transportation plan under
5 Section 201.601 or in the unified transportation program under
6 Section 201.991 in order to provide financial assistance under this
7 chapter.

8 SECTION 12. Subchapter P, Chapter 201, Transportation Code,
9 is amended by adding Section 201.9992 to read as follows:

10 Sec. 201.9992. ROLES AND RESPONSIBILITIES OF DEPARTMENT AND
11 METROPOLITAN PLANNING ORGANIZATIONS. (a) The commission shall
12 adopt rules governing:

13 (1) the alignment of the department's state and
14 federal funding forecasts, including the annual funding forecast
15 required by Section 201.993, with the funding forecasts of
16 metropolitan planning organizations, including:

17 (A) the funding forecasts used for long-term
18 planning as described in Sections 201.620 and 472.035; and

19 (B) the 10-year transportation plan required by
20 Section 201.9911;

21 (2) the alignment of the statewide project
22 recommendation criteria developed by the department with the
23 project recommendation criteria developed by metropolitan planning
24 organizations that relate to statewide transportation goals,
25 particularly for major mobility projects using a mix of several
26 funding sources and selected by different entities;

27 (3) the department's timelines and review process for

1 the 10-year transportation plans required by Section 201.9911;

2 (4) the department's process for allowing metropolitan
3 planning organizations direct access to the department's
4 information systems, software, and technical assistance for the
5 purpose of accomplishing statewide transportation goals; and

6 (5) the department's process for collaborating with
7 metropolitan planning organizations to regularly evaluate the
8 availability, consistency, and quality of data and other
9 information needed to fully develop a more performance-based
10 transportation planning and project selection system.

11 (b) A rule adopted under Subsection (a)(3) must take into
12 consideration a metropolitan planning organization's other
13 deadlines and requirements in federal law.

14 (c) The commission shall consult a stakeholder group before
15 developing the rules required by Subsection (a).

16 SECTION 13. Section 223.012, Transportation Code, is
17 amended to read as follows:

18 Sec. 223.012. CONTRACTOR PERFORMANCE. (a) The commission
19 [department] shall adopt rules to:

20 (1) establish a range of contract remedies to be
21 included in all low-bid highway improvement contracts, including
22 enforceable corrective action plans and criteria for prohibiting
23 contractors with significant project completion delays from
24 bidding on new projects, and develop a process and criteria for when
25 to apply each contract remedy;

26 (2) develop and implement a schedule for liquidated
27 damages that accurately reflects the costs associated with project

1 completion delays, including administrative and travel delays; and
2 (3) develop a contractor performance evaluation
3 process and an evaluation tool that:

4 (A) allows for the [(2)] review of contractor
5 bidding capacity to ensure that contractors meet each quality,
6 safety, and timeliness standard established by the commission; and

7 (B) contains criteria for modifying a
8 contractor's bidding capacity for competitively bid highway
9 improvement contracts when appropriate [(3) conduct a review to
10 determine whether commission rules or state law should be changed
11 to realize significant cost and time savings on state highway
12 construction and maintenance projects].

13 (b) In developing the rules required by Subsection (a)(1),
14 the commission must:

15 (1) consult with industry contractors; and

16 (2) consider contract remedies used by:

17 (A) other state agencies; and

18 (B) departments of transportation in other
19 states [Not later than December 1, 1998, the department shall file a
20 report with the governor, the lieutenant governor, and the speaker
21 of the house of representatives containing:

22 [(1) the results of the review conducted under
23 Subsection (a)(3); and

24 [(2) recommendations on legislation the commission
25 determines is necessary to realize significant cost and time
26 savings on state highway construction and maintenance].

27 (c) The rules adopted under Subsection (a)(2) must:

1 (1) include criteria for identifying projects that
2 have a significant impact on the traveling public; and

3 (2) require the department to calculate
4 project-specific liquidated damages for projects described by
5 Subdivision (1) that reflect the true cost of travel delays.

6 (d) In developing the evaluation tool required by
7 Subsection (a)(3), the commission must consult with industry
8 contractors.

9 (e) The rules adopted under Subsection (a)(3) must:

10 (1) provide for a process for contractors to appeal
11 the contractors' evaluations; and

12 (2) include criteria for the use of the evaluations by
13 the department to address contractor performance problems.

14 SECTION 14. (a) Not later than March 1, 2018, the Texas
15 Department of Transportation shall:

16 (1) complete a review and update of the long-term
17 transportation goals contained in the statewide transportation
18 plan under Section 201.601, Transportation Code, and make any
19 changes to the statewide transportation plan that are necessary to
20 implement the change in law made by this Act to Section 201.601,
21 Transportation Code, including adopting specific and clearly
22 defined transportation system strategies, long-term transportation
23 goals for the state and measurable targets for each goal, and other
24 related performance measures, to ensure that the department uses a
25 single set of transportation goals in all of the department's
26 transportation plans and policy efforts;

27 (2) make any changes to each of the department's

1 transportation plans and policy efforts that are necessary to
2 implement the change in law made by this Act to Section 201.6015,
3 Transportation Code;

4 (3) develop the plan required by Section
5 201.807(g)(3), Transportation Code, as added by this Act; and

6 (4) develop and publish on the department's Internet
7 website the dashboard required by Section 201.8075, Transportation
8 Code, as added by this Act.

9 (b) Not later than September 1, 2018, the Texas
10 Transportation Commission shall:

11 (1) adopt the rules required by Sections 201.807(h),
12 201.991(b-1), 201.998(f), and 201.9992, Transportation Code, as
13 added by this Act, and Section 223.012, Transportation Code, as
14 amended by this Act; and

15 (2) adopt or modify any rules necessary to implement
16 the changes in law made by this Act to Sections 201.807, 201.991,
17 and 201.998, Transportation Code.

18 SECTION 15. This Act takes effect September 1, 2017.