

By: _____ .B. No. _____

Substitute the following for ____B. No. _____:

By: _____ C.S. ____B. No. _____

A BILL TO BE ENTITLED

1 AN ACT

2 relating to transportation infrastructure in this state; providing
3 penalties.

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

5 ARTICLE 1. SHORT TITLE

6 SECTION 1.01. This Act shall be known as The Transportation
7 Reformation Act.

8 ARTICLE 2. MORATORIUM ON CERTAIN PRIVATE PARTICIPATION

9 SECTION 2.01. Subchapter E, Chapter 223, Transportation Code,
10 is amended by adding Section 223.2011 to read as follows:

11 Sec. 223.2011. MORATORIUM ON CERTAIN TERMS IN COMPREHENSIVE
12 DEVELOPMENT AGREEMENTS OR SALE OF TOLL PROJECTS. (a) In this
13 section:

14 (1) "Toll project" means a toll project described by
15 Section 201.001(b), regardless of whether the toll project:

16 (A) is a part of the state highway system; or

17 (B) is subject to the jurisdiction of the
18 department.

19 (2) "Toll project entity" means a public entity
20 authorized by law to acquire, design, construct, finance, operate,
21 or maintain a toll project, including:

- 1 (A) the department;
2 (B) a regional tollway authority;
3 (C) a regional mobility authority; or
4 (D) a county.

5 (b) A comprehensive development agreement entered into with a
6 private participant by a toll project entity on or after the
7 effective date of this section for the acquisition, design,
8 construction, financing, operation, or maintenance of a toll
9 project may not contain a provision permitting the private
10 participant to operate and collect revenue from the toll project.

11 (c) Subsection (b) does not apply to a comprehensive
12 development agreement in connection with a project:

13 (1) that includes one or more managed lane facilities to
14 be added to an existing controlled-access highway;

15 (2) the major portion of which is located in a
16 nonattainment or near nonattainment air quality area as designated
17 by the United States Environmental Protection Agency; and

18 (3) for which the department has issued a request for
19 qualifications before the effective date of this section.

20 (c-1) Subsection (b) does not apply to a comprehensive
21 development agreement in connection with a project associated with
22 the highway designated as the Trinity Parkway in the city of
23 Dallas.

24 (d) For purposes of Subsection (c), "managed lane facility"
25 means a facility that increases the efficiency of a controlled-

1 access highway through various operational and design actions and
2 that allows lane management operations to be adjusted at any time.

3 The term includes high-occupancy vehicle lanes, single-occupant
4 vehicle express lanes, tolled lanes, priced lanes, truck lanes,
5 bypass lanes, dual use facilities, or any combination of those
6 facilities.

7 (e) The department may not enter into a comprehensive
8 development agreement in connection with a project described by
9 Subsection (c) unless the commissioners court of the county in
10 which the majority of the project is located passes a resolution in
11 support of the agreement that states that the commissioners court:

12 (1) acknowledges that the comprehensive development
13 agreement may contain penalties for the construction of future
14 competing transportation projects that are acquired or constructed
15 during the term of the comprehensive development agreement; and

16 (2) knowing of those potential penalties, agrees that
17 the department should execute the comprehensive development
18 agreement.

19 (f) On or after the effective date of this section, a toll
20 project entity may not sell or enter into a contract to sell a toll
21 project of the entity to a private entity.

22 (g) A legislative study committee is created. The committee
23 is composed of nine members, appointed as follows:

24 (1) three members appointed by the lieutenant governor;

25 (2) three members appointed by the speaker of the house

1 of representatives; and

2 (3) three members appointed by the governor.

3 (h) The legislative study committee shall select a presiding
4 officer from among its members and conduct public hearings and
5 study the public policy implications of including in a
6 comprehensive development agreement entered into by a toll project
7 entity with a private participant in connection with a toll project
8 a provision that permits the private participant to operate and
9 collect revenue from the toll project. In addition, the committee
10 shall examine the public policy implications of selling an existing
11 and operating toll project to a private entity.

12 (i) Not later than December 1, 2008, the legislative study
13 committee shall:

14 (1) prepare a written report summarizing:

15 (A) any hearings conducted by the committee;

16 (B) any legislation proposed by the committee;

17 (C) the committee's recommendations for safeguards
18 and protections of the public's interest when a contract for the
19 sale of a toll project to a private entity is entered into; and

20 (D) any other findings or recommendations of the
21 committee; and

22 (2) deliver a copy of the report to the governor, the
23 lieutenant governor, and the speaker of the house of
24 representatives.

25 (j) On December 31, 2008, the legislative study committee

1 created under this section is abolished.

2 (k) This section expires September 1, 2009.

3 (l) Subsections (b), (c), (d), and (e) do not apply to a
4 project that is located in a county with a population of 575,000 or
5 more and is adjacent to an international border.

6 SECTION 2.02. This article takes effect immediately if this
7 Act receives a vote of two-thirds of all the members elected to
8 each house, as provided by Section 39, Article III, Texas
9 Constitution. If this Act does not receive the vote necessary for
10 immediate effect, this article takes effect September 1, 2007.

11 ARTICLE 3. COMPREHENSIVE DEVELOPMENT AGREEMENT SUNSET DATE

12 SECTION 3.01. Section 223.201(f), Transportation Code, is
13 amended to read as follows:

14 (f) The authority to enter into comprehensive development
15 agreements provided by this section expires on August 31, 2009
16 [~~2011~~].

17 ARTICLE 4. DEPARTMENT COMPREHENSIVE DEVELOPMENT AGREEMENT

18 PROVISIONS

19 SECTION 4.01. Section 223.201, Transportation Code, is
20 amended by amending Subsection (a) and adding Subsections (h) and
21 (i) to read as follows:

22 (a) The [~~Subject to Section 223.202, the~~] department may
23 enter into a comprehensive development agreement with a private
24 entity to design, develop, finance, construct, maintain, repair,
25 operate, extend, or expand a:

1 (1) state highway ~~[toll project]; or~~
2 (2) facility, as defined by Section 227.001, or a
3 combination of facilities on the Trans-Texas Corridor~~;~~
4 ~~[(3) state highway improvement project that includes~~
5 ~~both tolled and nontolled lanes and may include nontolled~~
6 ~~appurtenant facilities;~~
7 ~~[(4) state highway improvement project in which the~~
8 ~~private entity has an interest in the project; or~~
9 ~~[(5) state highway improvement project financed wholly~~
10 ~~or partly with the proceeds of private activity bonds, as defined~~
11 ~~by Section 141(a), Internal Revenue Code of 1986].~~

12 (h) The department may not enter into comprehensive
13 development agreements under this chapter with total construction
14 costs that are paid by the private participants and exceed \$10
15 billion. In this subsection, "construction costs" means the cost
16 of physical construction, and does not include costs incurred
17 before construction, operation and maintenance costs, or payments
18 received by the department under a comprehensive development
19 agreement.

20 (i) The department may not enter into a comprehensive
21 development agreement unless the attorney general reviews the
22 proposed agreement and determines that it is legally sufficient.

23 SECTION 4.02. Section 223.208, Transportation Code, is
24 amended by adding Subsection (i) to read as follows:

25 (i) If the department enters into a comprehensive development

1 agreement with a private participant that includes the imposition
2 and collection by the private participant of tolls for the use of a
3 toll project, the private participant has, with regard to toll
4 collection and enforcement for that toll project, the same powers
5 and duties as the department under Subchapter B, Chapter 228.

6 SECTION 4.03. Subchapter E, Chapter 223, Transportation Code,
7 is amended by adding Sections 223.210, 223.211, 223.212, 223.213,
8 and 223.214 to read as follows:

9 Sec. 223.210. TERMINATION FOR CONVENIENCE. (a) The
10 department by rule shall develop a formula for making termination
11 payments to terminate a comprehensive development agreement under
12 which a private participant has paid a concession payment for the
13 right to operate and collect revenue from a toll project. A
14 formula must calculate an estimated amount of loss to the private
15 participant as a result of the termination for convenience that is
16 based on investments, expenditures, and rate of return associated
17 with the project.

18 (b) A formula under Subsection (a) may not be based on an
19 estimate of future revenue from the project.

20 Sec. 223.211. TERMINATION OF CERTAIN COMPREHENSIVE
21 DEVELOPMENT AGREEMENTS. If the department elects to terminate a
22 comprehensive development agreement under which a private
23 participant has paid a concession fee for the right to operate and
24 collect revenue from a project, the department may:

25 (1) issue bonds under Section 228.102 of this code,

1 Subchapter M, Chapter 201, or other authority to:

2 (A) make any applicable termination payments to the
3 private participant; or

4 (B) purchase the interest of the private
5 participant in the comprehensive development agreement or related
6 property; or

7 (2) provide for the payment of obligations of the
8 private participant incurred pursuant to the comprehensive
9 development agreement.

10 Sec. 223.212. PROHIBITION AGAINST LIMITING OR PROHIBITING
11 CONSTRUCTION OF TRANSPORTATION PROJECTS. (a) A comprehensive
12 development agreement may not contain a provision that limits or
13 prohibits the construction, reconstruction, expansion,
14 rehabilitation, operation, or maintenance of a highway or other
15 transportation project, as that term is defined by Section 370.003,
16 by the department or other governmental entity, or by a private
17 entity under a contract with the department or other governmental
18 entity.

19 (b) Except as provided by Subsection (c), a comprehensive
20 development agreement may contain a provision authorizing the
21 department to compensate the private participant in the agreement
22 for the loss of toll revenues attributable to the construction by
23 the department of a limited access highway project located within
24 an area that extends up to four miles from either side of the
25 centerline of the project developed under the agreement, less the

1 private participant's decreased operating and maintenance costs
2 attributable to the highway project, if any.

3 (c) A comprehensive development agreement may not require the
4 department to provide compensation for the construction of:

5 (1) a highway project contained in the state
6 transportation plan or a transportation plan of a metropolitan
7 planning organization in effect on the effective date of the
8 agreement;

9 (2) work on or improvements to a highway project
10 necessary for improved safety, or for maintenance or operational
11 purposes; or

12 (3) a high occupancy vehicle exclusive lane addition or
13 other work on any highway project that is required by an
14 environmental regulatory agency.

15 (d) The private participant has the burden of proving any
16 loss of toll revenue resulting from the construction of a highway
17 project described by Subsection (b).

18 (e) A comprehensive development agreement that contains a
19 provision described by Subsection (b) must require the private
20 participant to provide compensation to the department in the amount
21 of any increase in toll revenues received by the private
22 participant that is attributable to the construction of a highway
23 project described by Subsection (b), less the private participant's
24 increased operation and maintenance costs attributable to the
25 highway project, if any.

1 Sec. 223.213. NOTIFICATION TO LEGISLATIVE BUDGET BOARD AND
2 STATE AUDITOR. (a) Not later than the 10th day after the date a
3 metropolitan planning organization approves the terms and
4 conditions for a toll project under Section 228.303(a), the
5 department shall provide the Legislative Budget Board with a copy
6 of the approved terms and conditions.

7 (b) Concurrently with its submission to a metropolitan
8 planning organization, the department shall provide a market
9 valuation developed under Section 228.303(b) to the Legislative
10 Budget Board and the state auditor.

11 (c) Not later than the 10th day after the date of qualifying
12 or shortlisting private entities to submit detailed proposals for a
13 toll project under Section 223.203(e), the department shall provide
14 the Legislative Budget Board with the names of qualifying or
15 shortlisted proposers and their team members.

16 (d) At least 30 days before entering into a comprehensive
17 development agreement, the department shall provide the Legislative
18 Budget Board with:

19 (1) a copy of the version of the proposed comprehensive
20 development agreement to be executed;

21 (2) a copy of the proposal submitted by the apparent
22 best value proposer; and

23 (3) a financial forecast prepared by the department that
24 includes:

25 (A) toll revenue the department projects will be

1 derived from the project during the planned term of the agreement;

2 (B) estimated construction costs and operating
3 expenses; and

4 (C) the amount of income the department projects
5 the private participant in the agreement will realize during the
6 planned term of the agreement.

7 (e) Before entering into a comprehensive development
8 agreement, the department shall provide the state auditor with the
9 traffic and revenue report prepared by the department or its
10 consultant for the project. The department may not enter into the
11 comprehensive development agreement before the 30th day after the
12 date that the state auditor receives the report so that the state
13 auditor may review and comment on the report and the methodology
14 used to develop the report.

15 (f) Before the comprehensive development agreement is entered
16 into, financial forecasts and traffic and revenue reports prepared
17 by or for the department for the project are confidential and are
18 not subject to disclosure, inspection, or copying under Chapter
19 552, Government Code.

20 Sec. 223.214. DISPUTE RESOLUTION. (a) Notwithstanding
21 Section 201.112 or other law to the contrary, the commission by
22 rule may establish procedures for the resolution of disputes
23 arising under a comprehensive development agreement that provides a
24 concession to the private participant. The procedures may include
25 binding arbitration.

1 is amended by adding Sections 223.2031, 223.2032, and 223.2033 to
2 read as follows:

3 Sec. 223.2031. DISCLOSURE OF FINANCIAL INFORMATION. (a)
4 Before the department enters into a contract for the construction
5 of a toll project, the department shall publish in the manner
6 provided by Section 223.2032 information regarding:

7 (1) project financing, including:

8 (A) the total amount of debt that has been and will
9 be assumed to acquire, design, construct, operate, and maintain the
10 toll project;

11 (B) a description of how the debt will be repaid,
12 including a projected timeline for repaying the debt; and

13 (C) the projected amount of interest that will be
14 paid on the debt;

15 (2) whether the toll project will continue to be tolled
16 after the debt has been repaid;

17 (3) a description of the method that will be used to set
18 toll rates;

19 (4) a description of any terms in the contract relating
20 to competing facilities, including any penalties associated with
21 the construction of a competing facility; and

22 (5) a description of any terms in the contract relating
23 to a termination for convenience provision, including any
24 information regarding how the value of the project will be
25 calculated for the purposes of making termination payments.

1 (b) The department may not enter into a contract for the
2 construction of a toll project before the 30th day after the date
3 the information is first published under Section 223.2032.

4 Sec. 223.2032. DISCLOSURE BY PUBLICATION. (a) Information
5 under Section 223.2031 must be published in a newspaper published
6 in the county in which the toll project is to be constructed once a
7 week for at least two weeks before the time set for entering into
8 the contract and in two other newspapers that the department may
9 designate.

10 (b) Instead of the notice required by Subsection (a), if the
11 department estimates that the contract involves an amount less than
12 \$300,000, the information may be published in two successive issues
13 of a newspaper published in the county in which the project is to
14 be constructed.

15 (c) If a newspaper is not published in the county in which
16 the toll project is to be constructed, notice shall be published in
17 a newspaper published in the county:

18 (1) nearest the county seat of the county in which the
19 improvement is to be made; and

20 (2) in which a newspaper is published.

21 Sec. 223.2033. HEARING. The department shall hold a public
22 hearing on the information published under Section 223.2032 after
23 the date the information is first published and before the
24 department enters into the contract.

25 ARTICLE 6. LENGTH OF CERTAIN TOLL OR FEE COLLECTION CONTRACTS

1 WITH PRIVATE ENTITIES

2 SECTION 6.01. Section 223.203, Transportation Code, is
3 amended by adding Subsection (f-1) to read as follows:

4 (f-1) A private entity responding to a request for detailed
5 proposals issued under Subsection (f) may submit alternative
6 proposals based on comprehensive development agreements having
7 different terms, with the alternative terms in multiples of 10
8 years, ranging from 10 years to 40 years or any lesser term
9 provided in a comprehensive development agreement.

10 SECTION 6.02. Section 223.208(h), Transportation Code, is
11 amended to read as follows:

12 (h) A ~~[Except as provided by this section, a]~~ comprehensive
13 development agreement with a private participant that includes the
14 collection by the private participant of tolls for the use of a
15 toll project may be for a term not longer than 40 ~~[50]~~ years. The
16 comprehensive development agreement must contain ~~[may be for a term~~
17 ~~not longer than 70 years if the agreement:]~~

18 ~~[(1) contains]~~ an explicit mechanism for setting the
19 price for the purchase by the department of the interest of the
20 private participant in the comprehensive development agreement and
21 related property, including any interest in a highway or other
22 facility designed, developed, financed, constructed, operated, or
23 maintained under the agreement~~;~~ ~~and~~

24 ~~[(2) outlines the benefit the state will derive from~~
25 ~~having a term longer than 50 years].~~

SECTION 6.03. Section 227.023(f), Transportation Code, is amended to read as follows:

(f) A contract with a private entity that includes the collection by the private entity of a fee for the use of a facility may not be for a term longer than 40 ~~[50]~~ years. The contract must contain an explicit mechanism for setting the price for the purchase by the department of the interest of the private participant in the contract and related property, including any interest in a highway or other facility designed, developed, financed, constructed, operated, or maintained under the contract.

ARTICLE 7. BILL OF RIGHTS FOR OWNERS OF PROPERTY THAT MAY BE
ACQUIRED FOR TRANSPORTATION PURPOSES

SECTION 7.01. Subchapter B, Chapter 402, Government Code, is amended by adding Section 402.031 to read as follows:

Sec. 402.031. PREPARATION OF LANDOWNER'S BILL OF RIGHTS STATEMENT. (a) The attorney general shall prepare a written statement that includes a bill of rights for a property owner whose real property may be acquired by a governmental or private entity through the use of the entity's eminent domain authority under Chapter 21, Property Code, for transportation purposes.

(b) The landowner's bill of rights must notify each property owner that the property owner has the right to:

(1) notice of the proposed acquisition of the owner's property;

(2) a bona fide good faith effort to negotiate by the

1 entity proposing to acquire the property;

2 (3) an assessment of damages to the owner that will
3 result from the taking of the property;

4 (4) a hearing under Chapter 21, Property Code, including
5 a hearing on the assessment of damages; and

6 (5) an appeal of a judgment in a condemnation
7 proceeding, including an appeal of an assessment of damages.

8 (c) The statement must include:

9 (1) the title, "Landowner's Bill of Rights"; and

10 (2) a description of:

11 (A) the condemnation procedure provided by Chapter
12 21, Property Code;

13 (B) the condemning entity's obligations to the
14 property owner; and

15 (C) the property owner's options during a
16 condemnation, including the property owner's right to object to and
17 appeal an amount of damages awarded.

18 (d) The office of the attorney general shall:

19 (1) write the statement in plain language designed to be
20 easily understood by the average property owner; and

21 (2) make the statement available on the attorney
22 general's Internet website.

23 SECTION 7.02. Subchapter B, Chapter 21, Property Code, is
24 amended by adding Section 21.0112 to read as follows:

25 Sec. 21.0112. PROVISION OF LANDOWNER'S BILL OF RIGHTS

1 STATEMENT REQUIRED. (a) Before a governmental or private entity
2 with eminent domain authority begins negotiating with a property
3 owner to acquire real property for transportation purposes, the
4 entity must send or provide a landowner's bill of rights statement
5 provided by Section 402.031, Government Code, to the person in
6 whose name the property is listed on the most recent tax roll of
7 any appropriate taxing unit authorized by law to levy property
8 taxes against the property.

9 (b) The statement must be:

10 (1) printed in an easily readable font and type size;

11 and

12 (2) if the entity is a governmental entity, made
13 available on the Internet website of the entity if technologically
14 feasible.

15 SECTION 7.03. Section 21.012(b), Property Code, is amended to
16 read as follows:

17 (b) The petition must:

18 (1) describe the property to be condemned;

19 (2) state the purpose for which the entity intends to
20 use the property;

21 (3) state the name of the owner of the property if the
22 owner is known; ~~and~~

23 (4) state that the entity and the property owner are
24 unable to agree on the damages; and

25 (5) if applicable, state that the entity provided the

1 property owner with the landowner's bill of rights statement in
2 accordance with Section 21.0112.

3 SECTION 7.04. The office of the attorney general shall
4 prepare the landowner's bill of rights statement required by
5 Section 402.031, Government Code, as added by this article, not
6 later than August 31, 2007.

7 SECTION 7.05. The changes in law made by this article apply
8 only to a condemnation proceeding in which the petition is filed on
9 or after the effective date of this Act and to any property
10 condemned through the proceeding. A condemnation proceeding in
11 which the petition is filed before the effective date of this Act
12 and any property condemned through the proceeding are governed by
13 the law in effect immediately before that date, and that law is
14 continued in effect for that purpose.

15 ARTICLE 8. ROUTE SELECTION FOR TRANS-TEXAS CORRIDOR

16 SECTION 8.01. Section 227.012, Transportation Code, is
17 amended to read as follows:

18 Sec. 227.012. ROUTE SELECTION. (a) The commission shall
19 consider the following criteria when selecting a route for a
20 segment of the Trans-Texas Corridor:

- 21 (1) current and projected traffic patterns;
22 (2) the safety of motorists;
23 (3) potential risks to persons from spills or accidents
24 of any kind;
25 (4) environmental effects, including the effect on air

1 quality;

2 (5) current and projected economic development;

3 (6) the current and projected need for additional
4 transportation options; and

5 (7) system connectivity.

6 (b) To the extent possible, the commission shall select a
7 route for a segment of the Trans-Texas Corridor that lies on the
8 Texas Highway Trunk System.

9 (c) Before the 11th day after making a determination under
10 Subsection (b) that it is not possible to select a route for a
11 segment of the Trans-Texas Corridor that lies on the Texas Highway
12 Trunk System, the commission shall file a written report of that
13 determination and the reasons supporting the determination with
14 each member of the legislature.

15 SECTION 8.02. This article takes effect immediately if this
16 Act receives a vote of two-thirds of all the members elected to
17 each house, as provided by Section 39, Article III, Texas
18 Constitution. If this Act does not receive the vote necessary for
19 immediate effect, this article takes effect September 1, 2007.

20 ARTICLE 9. GIFTS TO CERTAIN TEXAS TRANSPORTATION COMMISSION
21 EMPLOYEES PROHIBITED

22 SECTION 9.01. Subsection (a), Section 201.001, Transportation
23 Code, is amended by adding Subdivision (4) to read as follows:

24 (4) "Senior employee" means a department employee who is
25 an area engineer, a district engineer, a division director, a

1 special office director, an assistant executive director or the
2 equivalent, a deputy executive director or the equivalent, or the
3 executive director.

4 SECTION 9.02. Subchapter B, Chapter 201, Transportation Code,
5 is amended by adding Sections 201.060 and 201.061 to read as
6 follows:

7 Sec. 201.060. GIFT TO COMMISSIONER OR SENIOR EMPLOYEE;
8 OFFENSE. (a) In this section, "benefit" means anything reasonably
9 regarded as pecuniary gain or pecuniary advantage, including
10 benefit to any other person in whose welfare the beneficiary has a
11 direct and substantial interest.

12 (b) A commissioner or senior employee commits an offense if
13 the commissioner or senior employee solicits, accepts, or agrees to
14 accept any benefit from:

15 (1) a person the commissioner or senior employee knows
16 to be subject to regulation, inspection, or investigation by the
17 commission; or

18 (2) a person the commissioner or senior employee knows
19 is interested in or likely to become interested in any contract,
20 purchase, payment, claim, transaction, or matter involving the
21 exercise of the commissioner's or senior employee's discretion.

22 (c) A commissioner or senior employee who receives an
23 unsolicited benefit that the commissioner or senior employee is
24 prohibited from accepting under this section may donate the benefit
25 to a governmental entity that has the authority to accept the gift

1 or may donate the benefit to a recognized tax-exempt charitable
2 organization formed for educational, religious, or scientific
3 purposes.

4 (d) This section does not apply to:

5 (1) a fee prescribed by law to be received by a
6 commissioner or senior employee;

7 (2) a benefit to which the commissioner or senior
8 employee is lawfully entitled; or

9 (3) a benefit for which the commissioner or senior
10 employee gives legitimate consideration in a capacity other than as
11 a commissioner or senior employee.

12 (e) An offense under this section is a Class A misdemeanor.

13 (f) If conduct that constitutes an offense under this section
14 also constitutes an offense under Section 36.08, Penal Code, the
15 actor may be prosecuted under this section or Section 36.08.

16 Sec. 201.061. OFFERING GIFT TO COMMISSIONER OR SENIOR
17 EMPLOYEE; OFFENSE. (a) A person commits an offense if the person
18 offers, confers, or agrees to confer any benefit on a commissioner
19 or senior employee that the person knows the commissioner or senior
20 employee is prohibited from accepting under Section 201.060.

21 (b) An offense under this section is a Class A misdemeanor.

22 (c) If conduct that constitutes an offense under this section
23 also constitutes an offense under Section 36.09, Penal Code, the
24 actor may be prosecuted under this section or Section 36.09.

25 SECTION 9.03. The change in law made by this article applies

1 only to an offense committed on or after September 1, 2007. An
2 offense committed before September 1, 2007, is covered by the law
3 in effect when the offense was committed, and the former law is
4 continued in effect for that purpose. For the purposes of this
5 section, an offense was committed before September 1, 2007, if any
6 element of the offense occurred before that date.

7 ARTICLE 10. RELOCATION OF UTILITY FACILITIES REQUIRED BY
8 IMPROVEMENT OF A STATE HIGHWAY

9 SECTION 10.01. Sections 203.092(a-1), (a-2), and (a-3),
10 Transportation Code, are amended to read as follows:

11 (a-1) Notwithstanding Subsection (a)(3) [~~(a)~~], the department
12 and the utility shall share equally the cost of the relocation of a
13 utility facility that is made before September 1, 2013 [~~2007~~], and
14 required by the improvement of a nontolled highway to add one or
15 more tolled lanes. This subsection expires September 1, 2013
16 [~~2007~~].

17 (a-2) Notwithstanding Subsection (a)(3) [~~(a)~~], the department
18 and the utility shall share equally the cost of the relocation of a
19 utility facility that is made before September 1, 2013 [~~2007~~], and
20 required by [~~for~~] the improvement of a nontolled highway that has
21 been converted to a turnpike project or toll project. This
22 subsection expires September 1, 2013 [~~2007~~].

23 (a-3) Notwithstanding Subsection (a)(3) [~~(a)~~], the department
24 and the utility shall share equally the cost of the relocation of a
25 utility facility that is made before September 1, 2013 [~~2007~~], and

1 required by [~~for~~] the construction on a new location of a turnpike
2 project or toll project or the expansion of such a turnpike project
3 or toll project. This subsection expires September 1, 2013 [~~2007~~].

4 SECTION 10.02. Subchapter E, Chapter 203, Transportation
5 Code, is amended by adding Section 203.0922 to read as follows:

6 Sec. 203.0922. PREPAYMENT FUNDING AGREEMENT FOR RELOCATION OF
7 UTILITY FACILITIES. (a) On the request of a utility, the
8 commission shall by rule authorize the department to enter into a
9 prepayment funding agreement with the utility to reimburse the
10 utility for the direct and related indirect costs of the relocation
11 of a utility facility that is required by the improvement of a
12 segment of the state highway system, including a turnpike project
13 or toll project, for which the utility is not eligible for
14 reimbursement under Section 203.092. The agreement must:

15 (1) require the utility to prepay to the department an
16 annual amount as provided by Subsection (b) or (c);

17 (2) be for a term:

18 (A) that is a multiple of three years; and

19 (B) of at least six years;

20 (3) set forth a methodology for the utility to submit,
21 document, and substantiate reimbursable costs under the agreement;
22 and

23 (4) set forth a methodology for the department to
24 reimburse the utility its reimbursable costs under the agreement in
25 a timely manner.

1 (b) The annual prepayment amount for each year of the initial
2 three-year period of a prepayment funding agreement is equal to 75
3 percent of the annual average of the direct and related indirect
4 costs incurred for relocation of the utility's facilities on
5 applicable segments of the state highway system during the
6 preceding three years for which the utility is not otherwise
7 eligible for reimbursement under Section 203.092.

8 (c) The annual prepayment amount for each year of a
9 subsequent three-year period of a prepayment funding agreement is
10 equal to 75 percent of the annual average of the direct and related
11 indirect costs paid by the department or reimbursed to the utility
12 under the agreement for relocation of the utility's facilities on
13 applicable segments of the state highway system during the
14 preceding three years for which the utility is not otherwise
15 eligible for reimbursement under Section 203.092.

16 (d) The department may not establish a prepayment amount that
17 unreasonably discriminates among utilities.

18 (e) If a change in law causes all or a part of the cost of
19 the relocation of a utility facility that was eligible for
20 reimbursement under Section 203.092(a)(1) at the time a prepayment
21 funding agreement was entered into under this section to cease to
22 be eligible for reimbursement, that amount, beginning on the
23 effective date of the applicable change in law, is considered to be
24 a cost that is not otherwise eligible for reimbursement under
25 Section 203.092 for purposes of the prepayment funding agreement.

1 (f) Notwithstanding any law to the contrary, an obligation of
2 the commission or the department to make a payment to a utility
3 under a prepayment funding agreement entered into under this
4 section may be enforced by mandamus against the commission, the
5 department, and the comptroller in a district court of Travis
6 County, and the sovereign immunity of the state is waived for that
7 purpose. The district courts of Travis County have exclusive
8 jurisdiction and venue over any action brought under this
9 subsection. The remedy provided by this subsection is in addition
10 to any legal and equitable remedies that may be available to a
11 party to a prepayment funding agreement.

12 (g) This section or a contractual right obtained under an
13 agreement under this section does not:

14 (1) make the department or a utility subject to new or
15 additional licensing, certification, or regulatory jurisdiction of
16 the Public Utility Commission of Texas, Texas Department of
17 Insurance, or Railroad Commission of Texas; or

18 (2) supersede or otherwise affect a provision of another
19 law applicable to the department or a utility regarding licensing,
20 certification, or regulatory jurisdiction of an agency listed in
21 Subdivision (1).

22 (h) A payment received by the department under this section
23 must be deposited to the credit of the state highway fund and is
24 exempt from the application of Subchapter D, Chapter 316,
25 Government Code, and Section 403.095, Government Code.

1 (i) The commission shall appoint a rules advisory committee
2 to advise the department and the commission on development of the
3 commission's rules, including initial rules and additions or
4 changes to the rules, required by this section. The committee
5 shall consist solely of members representing interested utilities.
6 Chapter 2110, Government Code, does not apply to the committee.

7 (j) An agreement entered into by the department and a utility
8 under this section remains in force until its termination or
9 expiration.

10 (k) This section expires September 1, 2013.

11 SECTION 10.03. This article takes effect immediately if this
12 Act receives a vote of two-thirds of all the members elected to
13 each house, as provided by Section 39, Article III, Texas
14 Constitution. If this Act does not receive the vote necessary for
15 immediate effect, this article takes effect September 1, 2007.

16 ARTICLE 11. DESIGNATION OF EXCLUSIVE HIGHWAY LANES

17 SECTION 11.01. Section 224.1541(b), Transportation Code, is
18 amended to read as follows:

19 (b) The commission may designate a lane as an exclusive lane
20 under Subsection (a) only if the commission determines that the use
21 or operation of the exclusive lane is likely to enhance safety,
22 mobility, or air quality and:

23 (1) ~~[there:~~
24 ~~[-(A)—are]~~ two or more lanes adjacent to the
25 proposed exclusive lane are available for the use of vehicles other

1 (A) filing applications with the United States
2 Department of Transportation under 23 U.S.C. Section 327(b) (2); and

3 (B) taking actions necessary to meet the
4 application requirements established by 23 U.S.C. Section
5 327(b) (4);

6 (2) enter into one or more agreements, including
7 memoranda of understanding, with the United States Department of
8 Transportation related to federal highway programs as provided by
9 23 U.S.C. Sections 326 and 327;

10 (3) accept, receive, and administer grants, other money,
11 or gifts from public agencies, including the federal government,
12 for the purpose of carrying out the responsibilities assumed under
13 this section; and

14 (4) cooperate with the federal government in
15 implementing this section and any agreement entered into under this
16 section.

17 (b) Notwithstanding any contrary provisions of law, in
18 implementing a program under this section, the department may:

19 (1) perform or conduct any of the activities described
20 in an agreement entered into under 23 U.S.C. Section 326 or 327;
21 and

22 (2) take any action necessary to implement the program.

23 (c) The department may adopt relevant federal environmental
24 standards as the standards for this state for a program described
25 by Subsection (a).

1 (d) The department may adopt rules to implement this section.

2 (e) This state consents to the jurisdiction of the federal
3 courts with regard to the compliance, discharge, or enforcement of
4 a responsibility assumed by the department under this section. In
5 an action brought under a law described by this section, immunity
6 from suit under the Eleventh Amendment to the United States
7 Constitution may not be asserted by the department.

8 (f) The department may not delegate a responsibility assumed
9 under this section to a political subdivision of this state.

10 SECTION 12.02. Subchapter H, Chapter 201, Transportation
11 Code, is amended by adding Section 201.6075 to read as follows:

12 Sec. 201.6075. AUTHORIZATION TO GIVE ASSISTANCE TO AFFECTED
13 STATE AND FEDERAL AGENCIES. The department may enter into
14 agreements with the United States Department of Transportation
15 under 23 U.S.C. Section 139 to provide federal transportation funds
16 that have been made available to this state to affected federal
17 agencies, including the United States Department of Transportation,
18 state agencies, and Indian tribes that are participating in the
19 federal environmental review process for the projects in this state
20 or are participating in a state environmental review process that
21 has been approved by the United States Department of Transportation
22 for this state. Funds may be provided under an agreement only to
23 support activities that directly and meaningfully contribute to
24 expediting and improving transportation project planning and the
25 delivery of projects in the state. An agreement to expedite time

1 limits for environmental review may be approved only if the time
2 for review is less than the time customarily taken for such a
3 review.

4 SECTION 12.03. Section 201.703, Transportation Code, is
5 amended to read as follows:

6 Sec. 201.703. EXPENDITURES AND CONTRACTS FOR TRANSPORTATION
7 PROJECT OR PROGRAM [~~ROADS~~] NOT ON [~~THE~~] HIGHWAY SYSTEM. (a) The
8 department in conjunction with the Federal Highway Administration
9 may spend for a transportation program or for the improvement of a
10 transportation project [~~road~~] not on [~~in~~] the state highway system
11 money appropriated by the United States Congress, [~~and~~] allocated
12 by the United States secretary of transportation to the department,
13 and eligible under federal law for expenditure on the project or
14 program [~~road~~]. That federal money may be matched or supplemented
15 by an amount of state money necessary for proper construction and
16 performance of the work.

17 (b) State money may not be used exclusively for the
18 construction of an improvement [~~a road~~] not on [~~in~~] the state
19 highway system.

20 (c) The expenditure of state money is limited to the cost of
21 construction and engineering, overhead, and other costs on which
22 the application of federal money is prohibited or impractical and
23 to the cost of providing federally required oversight.

24 (d) The department may:

25 (1) contract for work that is not on the state highway

1 system under this section in accordance with the law that would
2 apply to the department if the work were on the state highway
3 system; or

4 (2) authorize a local government to contract for the
5 work in accordance with commission rule or with the law that would
6 apply to the local government for a comparable project.

7 ARTICLE 13. REPORTS AND INFORMATION BY TEXAS DEPARTMENT OF
8 TRANSPORTATION

9 SECTION 13.01. Subchapter J, Chapter 201, Transportation
10 Code, is amended by adding Section 201.805 to read as follows:

11 Sec. 201.805. REPORTS AND INFORMATION. (a) The department
12 shall annually publish in appropriate media and on the department's
13 Internet website in a format that allows the information to be read
14 into a commercially available electronic database a statistical
15 comparison of department districts and the following information,
16 calculated on a per capita basis considering the most recent census
17 data and listed for each county and for the state for each fiscal
18 year:

- 19 (1) the number of square miles;
20 (2) the number of vehicles registered;
21 (3) the population;
22 (4) daily vehicle miles;
23 (5) the number of centerline miles and lane miles;
24 (6) construction, maintenance, and contracted routine
25 and preventive maintenance expenditures;

1 (7) combined construction, maintenance, and contracted
2 routine and preventive maintenance expenditures;

3 (8) the number of district and division office
4 construction and maintenance employees;

5 (9) information regarding grant programs, including:

6 (A) Automobile Theft Prevention Authority grants;

7 (B) Routine Airport Maintenance Program grants;

8 (C) Public Transportation Grant Program grants;

9 (D) Medical Transportation Program grants; and

10 (E) aviation grants or aviation capital improvement
11 grants;

12 (10) approved State Infrastructure Bank loans; and

13 (11) Texas Traffic Safety Program grants and
14 expenditures.

15 (b) The department shall include information from all
16 department contracts in the statistical comparison and information
17 reports required under Subsection (a).

18 ARTICLE 14. STATE HIGHWAY TOLL PROJECTS

19 SECTION 14.01. Subchapter A, Chapter 228, Transportation
20 Code, is amended by amending Section 228.005 and adding Section
21 228.011 to read as follows:

22 Sec. 228.005. REVENUE OF TOLL PROJECT OR SYSTEM. Except as
23 provided by Section 228.011 and Subchapter C, toll revenue or other
24 revenue derived from a toll project or system that is collected or
25 received by the department under this chapter, and a payment

1 received by the department under a comprehensive development
2 agreement for a toll project or system:

- 3 (1) shall be deposited in the state highway fund; and
- 4 (2) is exempt from the application of Section 403.095,
5 Government Code.

6 Sec. 228.011. TRUST ARRANGEMENTS. (a) Notwithstanding any
7 other law, the following may be held in trust by a banking
8 institution chosen by the comptroller:

9 (1) payments received by the department under a
10 comprehensive development agreement;

11 (2) revenue of a toll project or system;

12 (3) revenue derived from a project designed, developed,
13 financed, constructed, maintained, repaired, operated, extended, or
14 expanded under a comprehensive development agreement that is
15 pledged to secure the department's obligations under the agreement;
16 and

17 (4) interest earned on money described by Subdivisions
18 (1) - (3) .

19 (b) The department may establish a trust account at a banking
20 institution chosen under Subsection (a) for the benefit of a
21 region, and may hold money described by Subsections (a) (1) and (2),
22 and interest earned on that money, in the trust account. The
23 department may assign responsibility for allocating money held in a
24 trust account established under this subsection to a metropolitan
25 planning organization, the territory of which includes that region.

1 Money must be allocated to projects authorized by Section 228.0055
2 or Section 228.006, as applicable.

3 (c) The department may enter into one or more trust
4 agreements that may contain any provision the department considers
5 appropriate, including a provision that pledges or assigns money
6 held in trust or that protects or enforces a right or remedy of a
7 private participant with which the department has entered into a
8 comprehensive development agreement under Subchapter E, Chapter
9 223.

10 (d) A trust account established under this section is subject
11 to audit by the state auditor.

12 SECTION 14.02. Section 228.054(a), Transportation Code, is
13 amended to read as follows:

14 (a) Except as provided by Subsection (e) or Section 228.0545,
15 the operator of a vehicle, other than an authorized emergency
16 vehicle, that is driven or towed through a toll collection facility
17 shall pay the proper toll.

18 SECTION 14.03. Subchapter B, Chapter 228, Transportation
19 Code, is amended by adding Section 228.0545 to read as follows:

20 Sec. 228.0545. ALTERNATIVE TOLLING METHODS. (a) As an
21 alternative to requiring payment of a toll at the time a vehicle is
22 driven or towed through a toll collection facility, the department
23 may use video billing or other tolling methods to permit the
24 registered owner of the vehicle to pay the toll at a later date.
25 The toll charged for video billing or other tolling methods may be

1 different from the toll paid at the time the vehicle is driven or
2 towed through a toll collection facility.

3 (b) The department may use automated enforcement technology
4 authorized under Section 228.058 to identify the registered owner
5 of the vehicle for purposes of billing, collection, and enforcement
6 activities.

7 (c) The department shall send by first class mail to the
8 registered owner of the vehicle a written notice of the total
9 amount due. The notice must specify the date, which may not be
10 earlier than the 15th day after the date the notice is mailed, by
11 which the amount due must be paid. The registered owner shall pay
12 the amount due on or before the date specified in the notice.

13 (d) The department shall send the notice required under
14 Subsection (c) and subsequent notices to:

15 (1) the registered owner's address as shown in the
16 vehicle registration records of the department; or

17 (2) if the department determines that the owner's
18 address shown in those records is inaccurate, an alternate address
19 provided by the owner or derived through other reliable means.

20 SECTION 14.04. Sections 228.055(a), (b), (d), (e), and (h),
21 Transportation Code, are amended to read as follows:

22 (a) In the event of nonpayment of the ~~[proper]~~ toll as
23 required by Section 228.054 or Section 228.0545, on issuance of a
24 written notice of nonpayment, the registered owner of the nonpaying
25 vehicle is liable for the payment of both the proper toll and an

1 administrative fee.

2 (b) The department may impose and collect the administrative
3 fee, so as to recover the cost of collecting the unpaid toll, not
4 to exceed \$100. The department shall send a written notice of
5 nonpayment to the registered owner of the vehicle at that owner's
6 address as shown in the vehicle registration records of the
7 department by first class mail and may require payment not sooner
8 than the 30th day after the date the notice was mailed. If the
9 department determines that the owner's address as shown in the
10 vehicle registration records is inaccurate, the department may send
11 the notice of nonpayment to an alternate address provided by the
12 owner or derived through other reliable means. The department may
13 use the alternate address in lieu of the address of record on all
14 subsequent notices of nonpayment. The registered owner shall pay a
15 separate toll and administrative fee for each event of nonpayment
16 under Section 228.054 or Section 228.0545.

17 (d) It is an exception to the application of Subsection (a)
18 or (c) if the registered owner of the vehicle is a lessor of the
19 vehicle and not later than the 30th day after the date the notice
20 of nonpayment is mailed provides to the department a copy of the
21 rental, lease, or other contract document covering the vehicle on
22 the date of the nonpayment under Section 228.054 or the date the
23 vehicle was driven or towed through a toll collection facility that
24 results in a notice issued under Section 228.0545, with the name
25 and address of the lessee clearly legible. If the lessor provides

1 the required information within the period prescribed, the
2 department may send a notice of nonpayment to the lessee at the
3 address shown on the contract document by first class mail before
4 the 30th day after the date of receipt of the required information
5 from the lessor. The lessee of the vehicle for which the proper
6 toll was not paid who is mailed a written notice of nonpayment
7 under this subsection and fails to pay the proper toll and
8 administrative fee within the time specified by the notice of
9 nonpayment commits an offense. The lessee shall pay a separate
10 toll and administrative fee for each event of nonpayment. Each
11 failure to pay a toll or administrative fee under this subsection
12 is a separate offense.

13 (e) It is an exception to the application of Subsection (a)
14 or (c) if the registered owner of the vehicle transferred ownership
15 of the vehicle to another person before the event of nonpayment
16 under Section 228.054 occurred or before the date the vehicle was
17 driven or towed through a toll collection facility that results in
18 a notice issued under Section 228.0545, submitted written notice of
19 the transfer to the department in accordance with Section 520.023,
20 and, before the 30th day after the date the notice of nonpayment is
21 mailed, provides to the department the name and address of the
22 person to whom the vehicle was transferred. If the former owner of
23 the vehicle provides the required information within the period
24 prescribed, the department may send a notice of nonpayment to the
25 person to whom ownership of the vehicle was transferred at the

1 address provided by the former owner by first class mail before the
2 30th day after the date of receipt of the required information from
3 the former owner. The department may send all subsequent notices
4 of nonpayment associated with the vehicle to the person to whom
5 ownership of the vehicle was transferred at the address provided by
6 the former owner or an alternate address provided by the subsequent
7 owner or derived through other reliable means. The subsequent
8 owner of the vehicle for which the proper toll was not paid who is
9 mailed a written notice of nonpayment under this subsection and
10 fails to pay the proper toll and administrative fee within the time
11 specified by the notice of nonpayment commits an offense. The
12 subsequent owner shall pay a separate toll and administrative fee
13 for each event of nonpayment under Section 228.054 or Section
14 228.0545. Each failure to pay a toll or administrative fee under
15 this subsection is a separate offense.

16 (h) In this section and in Section 228.0545, "registered
17 owner" means the owner of a vehicle as shown on the vehicle
18 registration records of the department or the analogous department
19 or agency of another state or country.

20 SECTION 14.05. Section 228.056(b), Transportation Code, is
21 amended to read as follows:

22 (b) In the prosecution of an offense under Section
23 228.055(c), (d), or (e):

24 (1) it is presumed that the notice of nonpayment was
25 received on the fifth day after the date of mailing;

1 (2) a computer record of the department of the
2 registered owner of the vehicle is prima facie evidence of its
3 contents and that the defendant was the registered owner of the
4 vehicle when the underlying event of nonpayment under Section
5 228.054 occurred or on the date the vehicle was driven or towed
6 through a toll collection facility that results in a notice issued
7 under Section 228.0545; and

8 (3) a copy of the rental, lease, or other contract
9 document covering the vehicle on the date of the underlying event
10 of nonpayment under Section 228.054 or on the date the vehicle was
11 driven or towed through a toll collection facility that results in
12 a notice issued under Section 228.0545 is prima facie evidence of
13 its contents and that the defendant was the lessee of the vehicle
14 when the underlying event of nonpayment under Section 228.054
15 occurred or when the vehicle was driven or towed through a toll
16 collection facility that results in a notice issued under Section
17 228.0545.

18 ARTICLE 15. CONVERSION OF NONTOLLED STATE HIGHWAY OR SEGMENT OF
19 STATE HIGHWAY SYSTEM TO TOLL PROJECT

20 SECTION 15.01. Section 228.201(a), Transportation Code, is
21 amended to read as follows:

22 (a) The [~~Except as provided by Section 228.2015, the~~]
23 department may not operate a nontolled state highway or a segment
24 of a nontolled state highway as a toll project, and may not
25 transfer a highway or segment to another entity for operation as a

1 toll project, unless:

2 (1) the commission by order designated the highway or
3 segment as a toll project before the contract to construct the
4 highway or segment was awarded;

5 (2) the highway or segment was open to traffic as a
6 turnpike project on or before September 1, 2005;

7 (3) the project was designated as a toll project in a
8 plan or program of a metropolitan planning organization on or
9 before September 1, 2005;

10 (4) the highway or segment is reconstructed so that the
11 number of nontolled lanes on the highway or segment is greater than
12 or equal to the number in existence before the reconstruction;

13 (5) a facility is constructed adjacent to the highway or
14 segment so that the number of nontolled lanes on the converted
15 highway or segment and the adjacent facility together is greater
16 than or equal to the number in existence on the converted highway
17 or segment before the conversion; or

18 (6) subject to Subsection (b), the highway or segment
19 was open to traffic as a high-occupancy vehicle lane on May 1,
20 2005[; ~~or~~

21 [~~(7) the commission converts the highway or segment to a~~
22 ~~toll facility by:~~

23 [~~(A) making the determination required by Section~~
24 ~~228.202;~~

25 [~~(B) conducting the hearing required by Section~~

1 ~~228.203; and~~

2 ~~[(C) obtaining county and voter approval as~~
3 ~~required by Sections 228.207 and 228.208].~~

4 SECTION 15.02. Sections 228.207 and 228.208, Transportation
5 Code, are repealed.

6 SECTION 15.03. This article takes effect immediately if this
7 Act receives a vote of two-thirds of all the members elected to
8 each house, as provided by Section 39, Article III, Texas
9 Constitution. If this Act does not receive the vote necessary for
10 immediate effect, this article takes effect September 1, 2007.

11 ARTICLE 16. DISPOSITION OF REVENUE FROM
12 TRANS-TEXAS CORRIDOR

13 SECTION 16.01. Section 227.083, Transportation Code, is
14 amended to read as follows:

15 Sec. 227.083. DISPOSITION OF FEES. (a) To the extent that
16 it is not dedicated to another purpose by the constitution, by
17 statute, or by contract, or deposited to a separate account under
18 this chapter, or subject to Subsection (b), revenue received by the
19 department under this chapter shall be deposited to the credit of
20 the state highway fund and may be used for any purpose authorized
21 by this chapter. Subchapter D, Chapter 316, Government Code, and
22 Section 403.095, Government Code, do not apply to revenue received
23 under this chapter.

24 (b) For purposes of this subsection, "surplus revenue" has
25 the meaning assigned by Section 366.003. Notwithstanding any other

1 provision of this title, including Section 228.053(b), the
2 department shall deposit any surplus revenue held or received by
3 the department under this chapter to the credit of the state
4 highway fund. Surplus revenue derived from a tolled segment or
5 combined segment of the Trans-Texas Corridor may be spent only in
6 connection with a project located in the department district in
7 which the tolled segment or combined segment of the Trans-Texas
8 Corridor is located.

9 SECTION 16.02. This article takes effect immediately if this
10 Act receives a vote of two-thirds of all the members elected to
11 each house, as provided by Section 39, Article III, Texas
12 Constitution. If this Act does not receive the vote necessary for
13 immediate effect, this article takes effect September 1, 2007.

14 ARTICLE 17. INVOLVEMENT OF METROPOLITAN PLANNING ORGANIZATIONS
15 AND LOCAL ENTITIES IN CERTAIN TOLL PROJECTS

16 SECTION 17.01. Chapter 228, Transportation Code, is amended
17 by adding Subchapter G to read as follows:

18 SUBCHAPTER G. METROPOLITAN PLANNING ORGANIZATION

19 AND LOCAL ENTITY INVOLVEMENT

20 Sec. 228.301. FINANCIAL REPORT. (a) The department and a
21 metropolitan planning organization that serves the area in which a
22 department toll project is located shall appoint a committee to
23 review the financial data on planned and existing toll projects
24 located within the planning area of the metropolitan planning
25 organization. The metropolitan planning organization shall appoint

1 to the committee as representatives of the organization the chair,
2 the vice chair, and no more than three other members serving on the
3 policy board of the organization. If possible, the appointed
4 members shall be elected officials. The department shall appoint to
5 the committee as representatives of the department no more than
6 five members of the commission or their designees. The chair of the
7 metropolitan planning organization shall chair the committee.

8 (b) Not later than March 31 of each year, the department
9 shall file with the commissioners court of each county in which the
10 department operates a toll project a written report on the findings
11 of the committee established under Subsection (a). At the
12 invitation of a commissioners court of a county in which the
13 department operates a toll project, representatives of the board
14 and the administrative head of the department shall appear before
15 the commissioners court to present the report and receive questions
16 and comments.

17 Sec. 228.302. METROPOLITAN PLANNING ORGANIZATION APPROVAL
18 REQUIRED. (a) The policy board of a metropolitan planning
19 organization must approve any proposal to develop a project in its
20 metropolitan transportation plan as a toll project.

21 (b) For each toll project of the department that is located
22 within an area served by a metropolitan planning organization, the
23 department must obtain approval of the policy board of the
24 metropolitan planning organization before the department may:

25 (1) lease, sell, or convey in another manner the

1 project;

2 (2) contract with a person for the person to operate all
3 or part of the project;

4 (3) refinance the project for the purpose of extending
5 the time before the discharge of bonded indebtedness on the
6 project;

7 (4) continue to impose tolls after the discharge of
8 bonded indebtedness on the project unless the tolls are imposed to
9 pay for the maintenance and operation of the project; or

10 (5) spend surplus revenue from the project on other
11 transportation projects.

12 (c) The department may not conduct preliminary engineering or
13 environmental studies for a toll project located in an area served
14 by a metropolitan planning organization unless the policy board of
15 the organization specifically authorizes the department to conduct
16 the preliminary engineering or environmental studies.

17 Sec. 228.303. TERMS AND CONDITIONS OF APPROVED TOLL PROJECTS;
18 MARKET VALUATION. (a) If the policy board of a metropolitan
19 planning organization determines that a project in its metropolitan
20 transportation plan should be developed, financed, constructed, and
21 operated as a toll project, the policy board shall approve terms
22 and conditions for the procurement and operation of the toll
23 project.

24 (b) After approving terms and conditions for a toll project
25 under Subsection (a), the policy board of a metropolitan planning

1 organization shall request the department to develop a market
2 valuation of the project that:

3 (1) is based on the terms and conditions approved by the
4 policy board; and

5 (2) uses traffic and revenue studies, market research,
6 and other information determined appropriate by the department.

7 Sec. 228.304. TOLL PROJECTS IN TERRITORY OF LOCAL OR REGIONAL
8 TOLL PROJECT ENTITY. (a) In this section, "local toll project
9 entity" means:

10 (1) a regional tollway authority under Chapter 366; or

11 (2) a regional mobility authority under Chapter 370.

12 (b) For each toll project located within the boundaries of a
13 local toll project entity, after completion of the market valuation
14 under Section 228.303(b), the policy board of the metropolitan
15 planning organization shall notify the local toll project entity by
16 mail that the entity has the first option to develop, finance,
17 construct, and operate the project. The toll project entity must
18 decide whether to exercise the option before the 180th day after
19 the date the notice sent under this subsection is received by the
20 local toll project entity.

21 (c) If the local toll project entity does not exercise the
22 option to develop, finance, construct, and operate a toll project
23 under Subsection (b), the metropolitan planning organization shall
24 allow the department to develop, finance, construct, and operate
25 the project.

1 (d) If the department determines that a toll project offered
2 to the department under Subsection (c) should be developed,
3 financed, constructed, and operated under a comprehensive
4 development agreement, a request for proposals issued under Section
5 223.203(f) shall include the terms and conditions approved by the
6 policy board of the metropolitan planning organization under
7 Section 228.303(a).

8 (e) After the commission's selection of an apparent best
9 value proposer for the development, financing, construction, and
10 operation of a toll project, the policy board of the metropolitan
11 planning organization shall notify the local toll project entity
12 that the toll project entity has the option to develop, finance,
13 construct, and operate the project on the same terms and conditions
14 as the apparent best value proposer.

15 (f) To exercise the option under Subsection (e), the local
16 toll project entity must, before the 180th day after the date the
17 notice under Subsection (e) is received, submit a binding
18 commitment to the policy board of the metropolitan planning
19 organization to equal or exceed the financial proposal offered by
20 the apparent best value proposer and enter into an agreement with
21 the department containing the same terms and conditions as the
22 comprehensive development agreement developed by the department for
23 the project. If the policy board of the metropolitan planning
24 organization determines that the toll project entity has submitted
25 a binding commitment described in this subsection, the toll project

1 entity may be authorized to develop, finance, construct, and
2 operate the project.

3 (g) If a local toll project entity does not exercise the
4 right to first option under Subsection (b) and after five years
5 after the date of the notice under Subsection (b) the commission or
6 the department has not issued a request for proposals or taken any
7 other action to begin the toll project, before taking such an
8 action the commission or the department shall provide the toll
9 project entity the right to first option under Subsection (b).

10 (h) A local toll project entity shall provide customer
11 service and other toll collection and enforcement services for a
12 toll project, regardless of whether the toll project is developed,
13 financed, constructed, and operated under a comprehensive
14 development agreement or an agreement with the toll project entity.

15 (i) For the purposes of this section, a notice is considered
16 received on the third business day after the date that the notice
17 is mailed.

18 Sec. 228.3041. TOLL PROJECTS IN CERTAIN COUNTIES. (a) This
19 section applies only to a county to which Chapter 284 applies.

20 (b) The county is the entity that has primary responsibility
21 for the development, financing, construction, and operation of a
22 toll project located in the county.

23 (c) To the extent authorized by federal law or authorized or
24 required by this title, the commission and the department shall
25 assist a county in the development, financing, construction, and

1 operation of a toll project located in the county by allowing the
2 county to use highway right-of-way owned by the department and to
3 access the state highway system.

4 (d) Subsections (b) and (c) do not limit the authority of the
5 commission or the department to participate in the cost of
6 acquiring, constructing, maintaining, or operating a toll project
7 of a county.

8 (e) Before the commission or the department may enter into a
9 contract for the development, financing, construction, or operation
10 of a proposed or existing toll project any part of which is located
11 in a county to which this section applies, the commission or
12 department shall provide the county:

13 (1) notice of the intent to enter into the contract as
14 described by Subsection (h); and

15 (2) the first option to develop, finance, construct, or
16 operate, as applicable, the portion of the toll project located in
17 the county:

18 (A) on terms agreeable to the county, without the
19 requirement of any payment to the commission or the department; and

20 (B) in a manner determined by the county to be
21 consistent with the practices and procedures by which the county
22 develops, finances, constructs, or operates a project of the
23 county.

24 (f) An agreement entered into by a county and the commission
25 or the department in connection with a toll project that is

1 developed, financed, constructed, or operated by the county and
2 that is on or directly connected to the state highway system may
3 not require the county to make any payments to the commission or
4 the department.

5 (g) An agreement entered into by a county and the commission
6 or department in connection with a toll project that is developed,
7 financed, constructed, or operated by the county and that is on or
8 directly connected to a highway in the state highway system does
9 not create a joint enterprise for liability purposes.

10 (h) A county's right to exercise the first option under
11 Subsection (e) is effective for 180 days following the date of
12 receipt by the county of written notification from the commission
13 or the department describing in reasonable detail the location of
14 the toll project, a projected cost estimate, sources and uses of
15 funds, and a construction schedule.

16 (i) If a county elects to exercise the first option with
17 respect to a toll project, the county must enter into one or more
18 contracts for the development, financing, construction, or
19 operation of the toll project within six months of the date of
20 exercising the option. A contract may include agreements for
21 design of the project, acquisition of right-of-way, and utility
22 relocation. If the county does not enter into a contract within
23 the six-month period, the commission or the department may enter
24 into a contract for the development, financing, construction, or
25 operation of the toll project with a different entity.

1 (j) If a county does not exercise the right to first option
2 under Subsection (e) and after five years after the date of the
3 notice under Subsection (h) the commission or the department has
4 not issued a request for proposals or taken any other action to
5 begin the toll project, before taking such an action the commission
6 or the department shall provide the county the right to first
7 option under Subsection (e).

8 Sec. 228.305. DETERMINATION OF APPLICABLE METROPOLITAN
9 PLANNING ORGANIZATION. If a toll project is located within the
10 boundaries of more than one metropolitan planning organization, the
11 metropolitan planning organization within whose boundaries a
12 majority of the project is located shall, with respect to that
13 project, exercise the powers granted to a metropolitan planning
14 organization under this subchapter.

15 Sec. 228.306. TOLL RATE SUBMISSION TO METROPOLITAN PLANNING
16 ORGANIZATION. Before the department may increase toll rates on a
17 toll project, the department must present the amount of the
18 increase at a meeting of the policy board of the applicable
19 metropolitan planning organization.

20 Sec. 228.307. LOCAL GOVERNMENT APPROVAL OF COMPREHENSIVE
21 DEVELOPMENT AGREEMENT. Before the commission or department may
22 finally execute a contract for a project involving a comprehensive
23 development agreement, the commissioners court for the county in
24 which the largest portion of the project is located must pass a
25 supporting resolution.

1 SECTION 17.02. Subchapter E, Chapter 366, Transportation
2 Code, is amended by adding Section 366.186 to read as follows:

3 Sec. 366.186. TOLL RATE SET BY METROPOLITAN PLANNING
4 ORGANIZATION. Notwithstanding any other provision of this chapter,
5 the toll rate for a turnpike project located in an area served by a
6 metropolitan planning organization shall be set by the policy board
7 of the organization. An annual increase in a toll rate set by the
8 policy board of a metropolitan planning organization may not exceed
9 the annual increase in the consumer price index. For the purposes
10 of this section, "consumer price index" means the annual average
11 over a calendar year of the consumer price index (all items, United
12 States city average) published monthly by the Bureau of Labor
13 Statistics, United States Department of Labor, or its successor in
14 function.

15 SECTION 17.03. Chapter 370, Transportation Code, is amended
16 by adding Subchapter K to read as follows:

17 SUBCHAPTER K. METROPOLITAN PLANNING ORGANIZATION PARTICIPATION

18 Sec. 370.401. FINANCIAL REPORT. (a) An authority and the
19 metropolitan planning organization that serves the area within the
20 boundaries of the authority shall appoint a committee to review the
21 financial data on planned and existing turnpike projects located
22 within the planning area of the metropolitan planning organization.
23 The metropolitan planning organization shall appoint to the
24 committee as representatives of the organization the chair, the
25 vice chair, and no more than three other members serving on the

1 policy board of the organization. If possible, the appointed
2 members shall be elected officials. The authority shall appoint to
3 the committee as representatives of the authority no more than five
4 members of the governing board of the authority, including any or
5 all of the elected officials serving on the governing board of the
6 authority. The chair of the metropolitan planning organization
7 shall chair the committee.

8 (b) Not later than March 31 of each year, an authority shall
9 file with the commissioners court of each county in which the
10 authority operates a turnpike project a written report on the
11 findings of the committee established under Subsection (a). At the
12 invitation of a commissioners court of a county in which the
13 authority operates a turnpike project, representatives of the board
14 and the administrative head of an authority shall appear before the
15 commissioners court to present the report and receive questions and
16 comments.

17 (c) The report required by this section may be given in
18 conjunction with the report required by Section 370.261.

19 Sec. 370.402. METROPOLITAN PLANNING ORGANIZATION APPROVAL
20 REQUIRED. (a) For each turnpike project of an authority that is
21 located within an area served by a metropolitan planning
22 organization, the authority must obtain approval of the policy
23 board of the metropolitan planning organization before the
24 authority may:

25 (1) lease, sell, or convey in another manner the

1 project;

2 (2) contract with a person for the person to operate all
3 or part of the project;

4 (3) refinance the project;

5 (4) continue to impose tolls after the discharge of
6 bonded indebtedness on the project; or

7 (5) spend surplus revenue from the project on other
8 transportation projects.

9 (b) An authority may not conduct preliminary engineering or
10 environmental studies for a turnpike project located in an area
11 served by a metropolitan planning organization unless the policy
12 board of the organization specifically authorizes the authority to
13 conduct the preliminary engineering or environmental studies.

14 Sec. 370.403. TOLL RATE SUBMISSION TO METROPOLITAN PLANNING
15 ORGANIZATION. Notwithstanding Section 370.172, before an authority
16 may increase toll rates on a turnpike project, the authority must
17 present the amount of the increase at a meeting of the policy board
18 of the applicable metropolitan planning organization.

19 ARTICLE 18. COUNTY AUTHORITY IN CONNECTION WITH CAUSEWAYS,
20 BRIDGES, TUNNELS, TURNPIKES, FERRIES, AND HIGHWAYS

21 SECTION 18.01. Section 284.002(a), Transportation Code, is
22 amended to read as follows:

23 (a) Except as provided by Subsection (b), this chapter
24 applies only to a county that on January 1, 2007, did not have
25 territory within the boundaries of a regional toll authority[÷

1 ~~[(1) has a population of 50,000 or more and borders the~~
2 ~~Gulf of Mexico or a bay or inlet opening into the gulf;~~
3 ~~[(2) has a population of 1.5 million or more;~~
4 ~~[(3) is adjacent to a county that has a population of~~
5 ~~1.5 million or more; or~~
6 ~~[(4) borders the United Mexican States].~~

7 ARTICLE 19. USE OF STATE HIGHWAY RIGHT-OF-WAY BY LOCAL TOLL
8 PROJECT ENTITY

9 SECTION 19.01. Section 284.004, Transportation Code, is
10 amended to read as follows:

11 Sec. 284.004. USE OF COUNTY PROPERTY AND STATE HIGHWAY
12 ALIGNMENT, RIGHT-OF-WAY, AND ACCESS. (a) Notwithstanding any
13 other law, under this chapter a county may use any county property,
14 state highway right-of-way, or access to the state highway system
15 ~~[for a project under this chapter]~~, regardless of when or how the
16 property, right-of-way, or access is acquired. The department or
17 the commission may require the county to comply with any covenant,
18 condition, restriction, or limitation that affects state highway
19 right-of-way, but may not:

20 (1) adopt rules or establish policies that have the
21 effect of denying the county the use of the right-of-way or access
22 that the county has determined to be necessary or convenient for
23 the construction, acquisition, improvement, operation, maintenance,
24 or pooling of a project under this chapter; or

25 (2) require the county to pay for the use of the right-

1 of-way or access, except to reimburse the commission or department
2 for actual costs incurred or to be incurred by a third party,
3 including the federal government, as a result of that use by the
4 county.

5 (b) If a project of the county under this chapter includes
6 the proposed use of improved state highway right-of-way, the county
7 and the commission or the department must enter into an agreement
8 that includes reasonable terms to accommodate that use of the
9 right-of-way by the county and to protect the interests of the
10 commission and the department in the use of the right-of-way for
11 operations of the department, including public safety and
12 congestion mitigation on the improved right-of-way.

13 (c) Notwithstanding any other law, the commission and the
14 department are not liable for any damages that result from a
15 county's use of state highway right-of-way or access to the state
16 highway system under this chapter, regardless of the legal theory,
17 statute, or cause of action under which liability is asserted.

18 SECTION 19.02. Subchapter B, Chapter 366, Transportation
19 Code, is amended by adding Section 366.035 to read as follows:

20 Sec. 366.035. USE OF STATE HIGHWAY ALIGNMENT, RIGHT-OF-WAY,
21 AND ACCESS. (a) Notwithstanding any other law, an authority may
22 use any authority property, state highway right-of-way, or access
23 to the state highway system, regardless of when or how the
24 property, right-of-way, or access is acquired. The department or
25 the commission may require the authority to comply with any

1 covenant, condition, restriction, or limitation that affects state
2 highway right-of-way, but may not:

3 (1) adopt rules or establish policies that have the
4 effect of denying the authority the use of the right-of-way or
5 access that the authority has determined to be necessary or
6 convenient for the construction, acquisition, improvement,
7 operation, maintenance, or pooling of a project under this chapter;
8 or

9 (2) require the authority to pay for the use of the
10 right-of-way or access, except to reimburse the commission or
11 department for actual costs incurred or to be incurred by a third
12 party, including the federal government, as a result of that use by
13 the authority.

14 (b) If a project of an authority under this chapter includes
15 the proposed use of improved state highway right-of-way, the
16 authority and the commission or the department must enter into an
17 agreement that includes reasonable terms to accommodate that use of
18 the right-of-way by the authority and to protect the interests of
19 the commission and the department in the use of the right-of-way
20 for operations of the department, including public safety and
21 congestion mitigation on the improved right-of-way.

22 (c) Notwithstanding any other law, the commission and the
23 department are not liable for any damages that result from an
24 authority's use of state highway right-of-way or access to the
25 state highway system under this chapter, regardless of the legal

1 theory, statute, or cause of action under which liability is
2 asserted.

3 ARTICLE 20. REGIONAL TOLLWAY AUTHORITY BOARD OF DIRECTORS

4 SECTION 20.01. Section 366.251, Transportation Code, is
5 amended by amending Subsection (c) and adding Subsection (d-1) to
6 read as follows:

7 (c) In addition to directors appointed by a commissioners
8 court under Subsection (b), the commissioners courts of each county
9 ~~[these counties]~~ of the authority ~~[in which all or part of a~~
10 ~~turnpike project is located and open for use by the traveling~~
11 ~~public]~~ shall appoint one ~~[two]~~ additional director if the county
12 is ~~[directors as follows]:~~

13 (1) a ~~[if the open turnpike project is located entirely~~
14 ~~in one]~~ county~~[, the commissioners court of]~~ that created the
15 authority under Section 366.031 ~~[county shall appoint the two~~
16 ~~additional directors];~~ or

17 (2) a county in which all or part of a ~~[if the open]~~
18 turnpike project of not less than 10 centerline miles in length is
19 located that has been open for use by the traveling public for at
20 least three years ~~[in two counties of the authority, the~~
21 ~~commissioners court of each county shall appoint one of the~~
22 ~~additional directors; or~~

23 ~~[(3) if the open turnpike project is located in more~~
24 ~~than two counties, the commissioners court of each county in which~~
25 ~~the project is located shall appoint one additional director on a~~

~~rotating basis and in accordance with a schedule agreed to and approved by concurrent resolutions adopted by the commissioners courts of at least three-fourths of the counties of the authority].~~

(d-1) If one or more directors are subsequently appointed to the board, the directors other than the subsequent appointees shall determine the length of the appointees' terms, to comply with Subsection (d).

SECTION 20.02. The change in law made by this article in amending Section 366.251, Transportation Code, does not affect the term of a member of the board of directors serving on the effective date of this Act. Members appointed to fill vacancies occurring on or after the effective date of this Act must be appointed in accordance with Section 366.251, Transportation Code, as amended by this article.

SECTION 20.03. The change in law made by this article in amending Section 366.251, Transportation Code, does not prohibit a person who is a member of a regional tollway authority board of directors before the effective date of this Act from being appointed as a member of the board under the new composition of the board of a regional tollway authority if the person has the qualifications required for the position under Section 366.251, Transportation Code, as amended by this article, and otherwise under Chapter 366, Transportation Code.

ARTICLE 21. REGIONAL MOBILITY AUTHORITY BOARD OF DIRECTORS

SECTION 21.01. Section 370.251, Transportation Code, is

1 amended by adding Subsection (b-1) and amending Subsections (c) and
2 (g) to read as follows:

3 (b-1) At least one of the directors must be an elected
4 official, which may include a member of the commissioners court or
5 another locally elected body.

6 (c) Directors [~~If permitted under the constitution of this~~
7 ~~state, directors serve staggered six-year terms, with the terms of~~
8 ~~no more than one-third of the directors expiring on February 1 of~~
9 ~~each odd-numbered year. If six-year terms are not permitted under~~
10 ~~the constitution, directors]~~ serve two-year terms, with as near as
11 possible to [~~the terms of not more than]~~ one-half of the directors'
12 terms [~~directors]~~ expiring on February 1 of each year.

13 (g) The following individuals are ineligible to serve as a
14 director:

15 (1) [~~an elected official;~~
16 [~~2~~] a person who is not a resident of a county within
17 the geographic area of the authority;

18 (2) [~~3~~] a department employee;

19 (3) [~~4~~] an employee of a governmental entity any part
20 of which is located within the geographic boundaries of the
21 authority; and

22 (4) [~~5~~] a person owning an interest in real property
23 that will be acquired for an authority project, if it is known at
24 the time of the person's proposed appointment that the property
25 will be acquired for the authority project.

1 SECTION 21.02. (a) The change in law made by Section
2 370.251(b-1), Transportation Code, as added by this article,
3 regarding the composition of the board of directors of a regional
4 mobility authority, does not affect the entitlement of a director
5 serving on the board immediately before the effective date of this
6 Act to continue to serve and function as a director for the
7 remainder of the director's term.

8 (b) The change in law made by Section 370.251(b-1),
9 Transportation Code, as added by this article, applies only to a
10 director appointed to the board of directors of a regional
11 mobility authority on or after the effective date of this Act, and
12 the first director appointed on or after the effective date of this
13 Act must be an elected official if the board does not meet the
14 requirements of Section 370.251(b-1), Transportation Code, as added
15 by this article.

16 ARTICLE 22. REGIONAL MOBILITY AUTHORITIES

17 SECTION 22.01. Subchapter E, Chapter 370, Transportation
18 Code, is amended by adding Section 370.194 to read as follows:

19 Sec. 370.194. MITIGATION OF ADVERSE ENVIRONMENTAL IMPACTS.
20 If authorized by an applicable regulatory authority, an authority
21 may offer to purchase a conservation easement from the owner of
22 real property to mitigate an adverse environmental impact that is a
23 direct result of a transportation project.

24 SECTION 22.02. Section 370.302(i), Transportation Code, is
25 amended to read as follows:

1 (i) An agreement with a private entity that includes the
2 collection by the private entity of tolls for the use of a
3 transportation project may not be for a term longer than 40 ~~[50]~~
4 years.

5 SECTION 22.03. Subchapter G, Chapter 370, Transportation
6 Code, is amended by adding Section 370.318 to read as follows:

7 Sec. 370.318. CONTRACT FOR ENFORCEMENT. A private entity
8 that contracts with an authority to operate a turnpike project may
9 contract with an agency of this state or a local governmental
10 entity for the services of peace officers employed by the agency or
11 entity to enforce laws related to:

12 (1) the regulation and control of vehicular traffic on a
13 state highway; and

14 (2) the payment of the proper toll on a turnpike
15 project.

16 SECTION 22.04. Section 11.11, Tax Code, is amended by adding
17 Subsection (k) to read as follows:

18 (k) For purposes of this section, any portion of a facility
19 leased to a private entity by a regional mobility authority under
20 Chapter 370, Transportation Code, is public property used for a
21 public purpose if the facility is operated by the private entity to
22 provide transportation or utility services. Any part of a facility
23 leased to a private entity for a commercial purpose under Chapter
24 370, Transportation Code, is not exempt from taxation.

25 SECTION 22.05. Section 25.07(c), Tax Code, is amended to read

1 as follows:

2 (c) Subsection (a) does not apply to:

3 (1) any portion of a facility owned by the Texas
4 Department of Transportation that is part of the Trans-Texas
5 Corridor, is a rail facility or system, or is a highway in the
6 state highway system and that is licensed or leased to a private
7 entity by that department under Chapter 91, 227, or 361,
8 Transportation Code; ~~[or]~~

9 (2) a leasehold or other possessory interest granted by
10 the Texas Department of Transportation in a facility owned by that
11 department that is part of the Trans-Texas Corridor, is a rail
12 facility or system, or is a highway in the state highway system; or

13 (3) a leasehold or other possessory interest in a
14 facility granted by a regional mobility authority under Chapter
15 370, Transportation Code.

16 ARTICLE 23. TOLL COLLECTION TRANSACTION PROCESSING BY CERTAIN
17 TOLL PROJECT ENTITIES

18 SECTION 23.01. Subchapter C, Chapter 284, Transportation
19 Code, is amended by adding Section 284.075 to read as follows:

20 Sec. 284.075. TRANSACTION PROCESSING. A county may enter
21 into an agreement with a bank or other financial institution, as
22 those terms are defined by Section 31.002, Finance Code, or a
23 clearinghouse association providing services to a bank or other
24 financial institution, to provide, on terms and conditions approved
25 by the county, toll transaction processing and other related

1 services. A county may enter into an agreement under this section
2 jointly with other toll entities.

3 SECTION 23.02. Subchapter E, Chapter 366, Transportation
4 Code, is amended by adding Section 366.186 to read as follows:

5 Sec. 366.186. TRANSACTION PROCESSING. An authority may enter
6 into an agreement with a bank or other financial institution, as
7 those terms are defined by Section 31.002, Finance Code, or a
8 clearinghouse association providing services to a bank or other
9 financial institution, to provide, on terms and conditions approved
10 by the authority, toll transaction processing and other related
11 services. An authority may enter into an agreement under this
12 section jointly with other toll entities.

13 SECTION 23.03. Subchapter E, Chapter 370, Transportation
14 Code, is amended by adding Section 370.195 to read as follows:

15 Sec. 370.195. TRANSACTION PROCESSING. An authority may enter
16 into an agreement with a bank or other financial institution, as
17 those terms are defined by Section 31.002, Finance Code, or a
18 clearinghouse association providing services to a bank or other
19 financial institution, to provide, on terms and conditions approved
20 by the authority, toll transaction processing and other related
21 services. An authority may enter into an agreement under this
22 section jointly with other toll entities.

23 ARTICLE 24. PROTOCOL AGREEMENT BETWEEN TEXAS DEPARTMENT OF
24 TRANSPORTATION AND REGIONAL TOLLWAY AUTHORITY

25 SECTION 24.01. (a) The Proposed TxDOT/NTTA Regional Protocol

1 entered into between the Texas Department of Transportation and the
2 North Texas Tollway Authority and approved on August 10, 2006, by
3 the tollway authority and on August 24, 2006, by the department is
4 void.

5 (b) On dissolution of the protocol under Subsection (a) of
6 this section, the North Texas Tollway Authority will remain the
7 operator for all turnpike projects within the service area of the
8 authority.

9 (c) This section does not apply to a comprehensive
10 development agreement for a managed lane facility toll project the
11 major portion of which is located inside the boundaries of a county
12 in which two or more municipalities each with a population of more
13 than 300,000 are located and for which the department has issued a
14 request for qualifications before the effective date of this
15 section.

16 ARTICLE 25. COMPREHENSIVE DEVELOPMENT AGREEMENTS FOR CERTAIN
17 TOLL PROJECT ENTITIES

18 SECTION 25.01. Subtitle G, Title 6, Transportation Code, is
19 amended by adding Chapter 371 to read as follows:

20 CHAPTER 371. PROVISIONS APPLICABLE TO TOLL PROJECT ENTITIES

21 OTHER THAN THE DEPARTMENT

22 SUBCHAPTER A. GENERAL PROVISIONS

23 Sec. 371.001. DEFINITIONS. In this chapter:

24 (1) "Toll project entity" means:

25 (A) a county or local government corporation

1 operating under Chapter 284;

2 (B) a county operating under Chapter 364;

3 (C) a regional tollway authority under Chapter 366;

4 (D) a municipality operating under Subchapter A,
5 Chapter 367; or

6 (E) a regional mobility authority under Chapter
7 370.

8 (2) "Turnpike project" means a highway of any number of
9 lanes, with or without grade separations, owned or operated by a
10 toll project entity and any improvement, extension, or expansion to
11 that highway, including:

12 (A) an improvement to relieve traffic congestion
13 and promote safety;

14 (B) a bridge, tunnel, overpass, underpass,
15 interchange, service road, ramp, entrance plaza, approach, or
16 tollhouse;

17 (C) an administration, storage, or other building
18 the toll project entity considers necessary to operate the turnpike
19 project;

20 (D) a parking area or structure, rest stop, park,
21 and other improvement or amenity the toll project entity considers
22 necessary, useful, or beneficial for the operation of a turnpike
23 project; and

24 (E) property rights, easements, and interests the
25 toll project entity acquires to construct or operate the turnpike

1 project.

2 [Sections 371.002-371.050 reserved for expansion]

3 SUBCHAPTER B. COMPREHENSIVE DEVELOPMENT AGREEMENTS

4 Sec. 371.051. COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) To
5 the extent and in the manner that the department may enter into a
6 comprehensive development agreement under Chapter 223, a toll
7 project entity may enter into a comprehensive development agreement
8 that provides for the financing, development, design, construction,
9 or operation of a turnpike project.

10 (b) All provisions of Chapter 223 relating to a comprehensive
11 development agreement apply to a comprehensive development
12 agreement for a turnpike project under this section, including a
13 provision relating to the confidentiality of information.

14 Sec. 371.052. USE OF CONTRACT PAYMENTS. A toll project
15 entity shall deliver all contract payments it receives under a
16 comprehensive development agreement to the department. The
17 department shall use the money for the purposes provided by Section
18 228.0055. Before money from a contract payment may be used for a
19 project that is located in the territory of a metropolitan planning
20 organization or rural planning organization, the department must
21 obtain the approval of the project from the policy board of the
22 metropolitan planning organization or the governing body of the
23 rural planning organization.

24 SECTION 25.02. Sections 370.003(7), 370.305, 370.306,
25 370.307, 370.308, 370.309, 370.310, 370.311, and 370.312,

1 Transportation Code, are repealed.

2 ARTICLE 26. PAYMENTS TO UNSUCCESSFUL PROPOSERS FOR COMPREHENSIVE
3 DEVELOPMENT AGREEMENT CONTRACTS

4 SECTION 26.01. Section 223.203(m), Transportation Code, is
5 amended to read as follows:

6 (m) The department may ~~[shall]~~ pay an unsuccessful private
7 entity that submits a responsive proposal in response to a request
8 for detailed proposals under Subsection (f) a stipulated amount in
9 exchange for the work product contained in that proposal. A ~~[The]~~
10 stipulated amount must be stated in the request for proposals and
11 may not exceed the value of any work product contained in the
12 proposal that can, as determined by the department, be used by the
13 department in the performance of its functions. The use by the
14 department of any design element contained in an unsuccessful
15 proposal is at the sole risk and discretion of the department and
16 does not confer liability on the recipient of the stipulated amount
17 under this section. After payment of the stipulated amount:

18 (1) the department owns with the unsuccessful proposer
19 jointly the rights to, and may make use of any work product
20 contained in, the proposal, including the technologies, techniques,
21 methods, processes, ideas, and information contained in the project
22 design; and

23 (2) the use by the unsuccessful proposer of any portion
24 of the work product contained in the proposal is at the sole risk
25 of the unsuccessful proposer and does not confer liability on the

1 department.

2 ARTICLE 27. METROPOLITAN PLANNING ORGANIZATIONS, RURAL PLANNING
3 ORGANIZATIONS, AND CORRIDOR PLANNING ORGANIZATIONS

4 SECTION 27.01. The heading to Subchapter D, Chapter 472,
5 Transportation Code, is amended to read as follows:

6 SUBCHAPTER D. METROPOLITAN PLANNING ORGANIZATIONS
7 AND RURAL PLANNING ORGANIZATIONS

8 SECTION 27.02. Section 472.031(1), Transportation Code, is
9 amended to read as follows:

10 (1) "Metropolitan planning organization" means a
11 governmental body that is ~~[metropolitan planning organization]~~
12 designated or redesignated under 23 U.S.C. Section 134 to perform
13 the transportation planning process required by that section and
14 other duties that are assigned by law.

15 SECTION 27.03. Subchapter D, Chapter 472, Transportation
16 Code, is amended by adding Sections 472.0315, 472.0316, and 472.034
17 through 472.042 to read as follows:

18 Sec. 472.0315. DESIGNATION BY GOVERNOR. The governor shall
19 designate a metropolitan planning organization for each urbanized
20 area of the state with a population greater than 50,000 in
21 accordance with 23 U.S.C. Section 134.

22 Sec. 472.0316. POLICY BOARD MEMBERSHIP. The policy board of
23 a metropolitan planning organization in the state must include:

24 (1) one state senator from a senate district that
25 includes territory in the metropolitan planning organization

1 selected by unanimous agreement of all senators representing
2 districts that include territory in the organization, or in the
3 absence of unanimous agreement, the senator from the most populous
4 senate district that includes territory in the organization; and
5 (2) two state representatives from districts that
6 include territory in the metropolitan planning organization
7 selected by vote of all state representatives from districts that
8 include territory in the organization.

9 Sec. 472.034. DELEGATION TO METROPOLITAN PLANNING
10 ORGANIZATION. (a) The commission may delegate to a metropolitan
11 planning organization any duty or power for the development,
12 management, or operation of a toll project or other transportation
13 project, system, or program, including a project, system, or
14 program designed to reduce traffic congestion or improve air
15 quality.

16 (b) The commission may solicit from a metropolitan planning
17 organization recommendations about the selection of transportation
18 projects, systems, or programs to be located within the boundaries
19 of the metropolitan planning organization.

20 (c) The commission may delegate the selection of a project,
21 system, or program to be located within the boundaries of a
22 metropolitan planning organization to the metropolitan planning
23 organization.

24 (d) The commission shall approve a project, system, or
25 program selected by a metropolitan planning organization under

1 Subsection (c).

2 Sec. 472.035. INDEPENDENT FINANCIAL ADVISOR REQUIRED. If a
3 metropolitan planning organization is required or permitted to
4 review bids for a comprehensive development agreement for a project
5 all or part of which is in the territory of the metropolitan
6 planning organization, the organization must use the services of an
7 independent financial advisor to advise the organization in its
8 review and in any recommendations that the organization makes.

9 Sec. 472.036. SUNSET PROVISION. A metropolitan planning
10 organization is subject to review under Chapter 325, Government
11 Code (Texas Sunset Act), but is not abolished under that chapter.
12 An existing metropolitan planning organization shall be reviewed
13 during the periods in which state agencies abolished in 2019 and
14 every 12th year after 2019 are reviewed. A metropolitan planning
15 organization created after September 1, 2007, shall be reviewed in
16 the 12th year after the year in which the organization is created.

17 Sec. 472.037. APPOINTMENTS TO POLICY BOARD. Appointments to
18 a policy board shall be made without regard to the race, color,
19 disability, sex, religion, age, or national origin of the
20 appointees.

21 Sec. 472.038. SEPARATION OF RESPONSIBILITIES. A policy board
22 shall develop and implement policies that clearly separate the
23 polycymaking responsibilities of the policy board and the
24 management responsibilities of the director and the staff of the
25 metropolitan planning organization.

1 Sec. 472.039. PUBLIC TESTIMONY. A policy board shall develop
2 and implement policies that provide the public with a reasonable
3 opportunity to appear before the policy board and to speak on any
4 issue under the jurisdiction of the metropolitan planning
5 organization.

6 Sec. 472.040. COMPLAINTS. (a) A metropolitan planning
7 organization shall maintain a system to promptly and efficiently
8 act on complaints filed with the metropolitan planning
9 organization. The organization shall maintain information about
10 parties to the complaint, the subject matter of the complaint, a
11 summary of the results of the review or investigation of the
12 complaint, and its disposition.

13 (b) The organization shall make information available
14 describing its procedures for complaint investigation and
15 resolution.

16 (c) The organization shall periodically notify the complaint
17 parties of the status of the complaint until final disposition.

18 Sec. 472.041. TECHNOLOGY REQUIREMENTS. A policy board shall
19 implement a policy requiring the metropolitan planning organization
20 to use appropriate technological solutions to improve the
21 organization's ability to perform its functions. The policy must
22 ensure that the public is able to interact with the organization on
23 the Internet.

24 Sec. 472.042. RURAL PLANNING ORGANIZATIONS. (a) In this
25 section:

1 (1) "Local government" means a county or municipality.

2 (2) "Regional planning commission" means a regional
3 planning commission, council of governments, or other entity
4 created under Chapter 391, Local Government Code.

5 (3) "Rural planning organization" means a planning
6 organization created in accordance with this section.

7 (b) To perform the transportation planning process required
8 by this section, local governments that represent at least 75
9 percent of the affected population may create a rural planning
10 organization that includes an area that is located within the
11 boundaries of a regional planning commission and outside the
12 boundaries of a metropolitan planning organization. The units of
13 local government shall coordinate with the regional planning
14 commission when creating the regional planning organization.

15 (c) A rural planning organization is governed by a board of
16 directors composed of local elected officials and the district
17 engineer of each department district any part of which is located
18 within the boundaries of the rural planning organization.

19 (d) The organization shall send notice of its creation to the
20 commission as soon as practicable following creation.

21 (e) The department may use money in the state highway fund to
22 fund the operations of a rural planning organization.

23 (f) A rural planning organization shall develop
24 transportation plans and programs for the area served by the rural
25 planning organization. The process for developing the

1 transportation plans and programs must provide for consideration of
2 all modes of transportation and must be continuing, cooperative,
3 and comprehensive to the degree appropriate, based on the
4 complexity of the transportation problems to be addressed.

5 (g) A rural planning organization shall prepare and update
6 periodically a long-range transportation plan for the area served
7 by the rural planning organization. Before approving a long-range
8 transportation plan, a rural planning organization shall provide to
9 residents living within its boundaries, affected public agencies,
10 and other interested parties a reasonable opportunity to comment on
11 the long-range transportation plan. A rural planning organization
12 shall make each long-range transportation plan available for public
13 review and shall deliver each plan to the commission at the time
14 and in the manner established by the commission.

15 (h) A rural planning organization may provide to the
16 commission recommendations for the selection of transportation
17 projects, systems, or programs to be undertaken within the
18 boundaries of the rural planning organization.

19 (i) The commission may delegate the selection of a project,
20 system, or program under Subsection (h) to the rural planning
21 organization but the commission must agree with the organization's
22 selection before the selection becomes effective.

23 SECTION 27.04. Subchapter B, Chapter 227, Transportation
24 Code, is amended by adding Section 227.0135 to read as follows:

25 Sec. 227.0135. CORRIDOR PLANNING ORGANIZATION. (a) Before

1 the commission designates a route for a segment of the Trans-Texas
2 Corridor, the commission shall create a corridor planning
3 organization that is composed of representatives of metropolitan
4 planning organizations and rural planning organizations that may be
5 affected by the segment.

6 (b) The corridor planning organization consists of:

7 (1) two members appointed by each metropolitan planning
8 organization with jurisdiction over an area in which the proposed
9 segment of the corridor is located;

10 (2) two members appointed by each rural planning
11 organization with jurisdiction over an area in which the proposed
12 segment of the corridor is located;

13 (3) one additional member appointed by the metropolitan
14 planning organization with jurisdiction over the longest portion of
15 the proposed segment of the corridor;

16 (4) one additional member appointed by the rural
17 planning organization with jurisdiction over the longest portion of
18 the proposed segment of the corridor; and

19 (5) if necessary to create an odd number of members, one
20 additional member appointed by the members of the corridor planning
21 organization appointed in Subdivisions (1)-(4).

22 (c) The corridor planning organization shall assist the
23 commission in the planning of the segment of the corridor for which
24 the corridor planning organization was created. The commission
25 shall consider the corridor planning organization's recommendations

1 when selecting a route for the segment. The corridor planning
2 organization must approve any facility proposed to be constructed
3 as part of the segment of the corridor and must approve the method
4 of contracting for the construction or operation of a facility,
5 including whether the facility will be constructed or operated
6 under a comprehensive development agreement.

7 ARTICLE 28. PERMISSIBLE USES OF STATE HIGHWAY FUND

8 SECTION 28.01. Section 201.115(d), Transportation Code, is
9 amended to read as follows:

10 (d) Notwithstanding Section 222.001, money in the state
11 highway fund may be used to repay a loan under this section, if
12 permissible under the Texas Constitution and appropriated by the
13 legislature for that purpose.

14 SECTION 28.02. Section 222.001, Transportation Code, is
15 amended to read as follows:

16 Sec. 222.001. USE OF STATE HIGHWAY FUND. (a) Money that is
17 required to be used for public roadways by the Texas Constitution
18 or federal law and that is deposited in the state treasury to the
19 credit of the state highway fund, including money deposited to the
20 credit of the state highway fund under Title 23, United States
21 Code, may be used only:

- 22 (1) to improve the state highway system; or
23 (2) to mitigate adverse environmental effects that
24 result directly from construction or maintenance of a state highway
25 by the department[; ~~or~~

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

4 (b) Except as otherwise provided by this code, money in the
5 state highway fund that is not described by Subsection (a) may be
6 used only to improve the state highway system.

7 SECTION 28.03. Section 222.073, Transportation Code, is
8 amended to read as follows:

9 Sec. 222.073. PURPOSES OF INFRASTRUCTURE BANK. To the extent
10 permissible under ~~[Notwithstanding]~~ Section 222.001, the commission
11 shall use money deposited in the bank to:

12 (1) encourage public and private investment in
13 transportation facilities both within and outside of the state
14 highway system, including facilities that contribute to the
15 multimodal and intermodal transportation capabilities of the state;
16 and

17 (2) develop financing techniques designed to:

18 (A) expand the availability of funding for
19 transportation projects and to reduce direct state costs;

20 (B) maximize private and local participation in
21 financing projects; and

22 (C) improve the efficiency of the state
23 transportation system.

24 SECTION 28.04. Section 222.002, Transportation Code, is
25 repealed.

1 SECTION 28.05. This article takes effect only if the
2 constitutional amendment proposed by the 80th Legislature, Regular
3 Session, 2007, to limit the purposes for which revenues from motor
4 vehicle registration fees, taxes on motor fuels and lubricants, and
5 certain revenues received from the federal government may be used
6 is approved by the voters. If that amendment is not approved by
7 the voters, this article has no effect.

8 ARTICLE 29. REVENUE FOR TEXAS MOBILITY FUND OTHER THAN TAXES

9 SECTION 29.01. Subchapter B, Chapter 2302, Occupations Code,
10 is amended by adding Section 2302.054 to read as follows:

11 Sec. 2302.054. DISPOSITION OF FEES. Each fee collected by
12 the department under this chapter shall be deposited to the credit
13 of the Texas mobility fund.

14 SECTION 29.02. Subchapter B, Chapter 2303, Occupations Code,
15 is amended by adding Section 2303.055 to read as follows:

16 Sec. 2303.055. DISPOSITION OF FUNDS. Each fee and penalty
17 collected by the department under this chapter shall be deposited
18 to the credit of the Texas mobility fund.

19 SECTION 29.03. Sections 201.943(b), (c), (f), and (j),
20 Transportation Code, are amended to read as follows:

21 (b) Obligations must be secured by and payable from a pledge
22 of and lien on all or part of the money in the fund, including the
23 revenues of the state dedicated or appropriated for deposit to the
24 fund. Obligations may be additionally secured by and payable from
25 credit agreements. The commission may pay amounts due on the

1 obligations from discretionary money available to it that is not
2 dedicated to or appropriated for other specific purposes.

3 (c) The commission may create within the fund accounts,
4 reserves, and subfunds for purposes the commission finds
5 appropriate and necessary [~~in connection with the issuance of~~
6 ~~obligations~~].

7 (f) Short-term obligations in the amount proposed by the
8 commission may not be issued unless the comptroller, in a
9 comptroller's certification:

10 (1) assumes that the short-term obligations will be
11 refunded and refinanced to mature over a 20-year period with level
12 debt service [~~principal~~] requirements and bearing interest at then
13 current market rates, as determined by the comptroller; and

14 (2) projects that the amount of money dedicated to the
15 fund pursuant to Section 49-k(e), Article III, Texas Constitution,
16 and required to be on deposit in the fund pursuant to Section 49-
17 k(f), Article III, Texas Constitution, and the investment earnings
18 on that money, during each year of the assumed 20-year period will
19 be equal to at least 110 percent of the requirements to pay the
20 principal of and interest on the proposed refunding obligations
21 during that year.

22 (j) A comptroller's certification under this section must be
23 based on economic data, forecasting methods, and projections that
24 the comptroller determines are reliable. In determining the
25 principal and interest requirements on outstanding and proposed

1 obligations, and subject to the express limitations of this
2 subchapter and Section 49-k, Article III, Texas Constitution, the
3 comptroller shall rely on the assumptions included in the
4 resolution authorizing the obligations for the calculation of debt
5 service.

6 SECTION 29.04. Section 501.138(c), Transportation Code, is
7 amended to read as follows:

8 (c) Of the amount received under Subsection (b)(2), the
9 department shall deposit:

10 (1) \$5 in the Texas mobility fund [~~general revenue~~
11 ~~fund~~]; and

12 (2) \$3 to the credit of the state highway fund to
13 recover the expenses necessary to administer this chapter.

14 SECTION 29.05. Section 504.101(e), Transportation Code, is
15 amended to read as follows:

16 (e) Of each fee collected by the department under this
17 section:

18 (1) \$1.25 shall be used to defray the cost of
19 administering this section; and

20 (2) the remainder shall be deposited to the credit of
21 the Texas mobility fund [~~general revenue fund~~].

22 SECTION 29.06. Section 542.402, Transportation Code, is
23 amended by adding Subsection (f) to read as follows:

24 (f) The comptroller shall deposit money received under
25 Subsection (b) to the credit of the Texas mobility fund.

SECTION 29.07. Section 542.4031(g), Transportation Code, is amended to read as follows:

(g) Of the money received by the comptroller under this section, the comptroller shall deposit:

(1) 67 percent to the credit of the Texas mobility fund [~~undedicated portion of the general revenue fund~~]; and

(2) 33 percent to the credit of the designated trauma facility and emergency medical services account under Section 780.003, Health and Safety Code.

SECTION 29.08. Section 623.011(b), Transportation Code, is amended to read as follows:

(b) To qualify for a permit under this section:

(1) the vehicle must be registered under Chapter 502 for the maximum gross weight applicable to the vehicle under Section 621.101, not to exceed 80,000 pounds;

(2) the security requirement of Section 623.012 must be satisfied; and

(3) a base permit fee of \$200 [~~\$75~~], any additional fee required by Section 623.0111, and any additional fee set by the department under Section 623.0112 must be paid.

SECTION 29.09. Subchapter B, Chapter 623, Transportation Code, is amended by adding Section 623.020 to read as follows:

Sec. 623.020. DISPOSITION OF FEES. Except as provided by Section 621.353, each fee collected by the department for a permit issued under this subchapter shall be deposited to the credit of

1 the Texas mobility fund.

2 SECTION 29.10. Section 623.076, Transportation Code, is
3 amended by amending Subsection (c) and adding Subsection (d) to
4 read as follows:

5 (c) An application for a permit under Section 623.071(c)(3)
6 or (d) must be accompanied by the permit fee established by the
7 commission for the permit, not to exceed \$3,500. Of each fee
8 collected under this subsection, the department shall send:

9 (1) the first \$1,000 to the comptroller for deposit to
10 the credit of the Texas mobility fund [~~general revenue fund~~]; and

11 (2) any amount in excess of \$1,000 to the comptroller
12 for deposit to the credit of the state highway fund.

13 (d) Except as provided in Subsection (c)(2), each fee
14 collected under this section shall be deposited to the credit of
15 the Texas mobility fund.

16 SECTION 29.11. Subchapter A, Chapter 643, Transportation
17 Code, is amended by adding Section 643.005 to read as follows:

18 Sec. 643.005. DEPOSIT OF FUNDS. Except as provided by
19 Section 643.004(b), all fees and penalties collected by the
20 department under this chapter shall be deposited to the credit of
21 the Texas mobility fund.

22 SECTION 29.12. Chapter 645, Transportation Code, is amended
23 by adding Section 645.005 to read as follows:

24 Sec. 645.005. DEPOSIT OF FUNDS. Except as provided by
25 Section 645.002(c), all fees and penalties collected under this

1 chapter shall be deposited to the credit of the Texas mobility
2 fund.

3 SECTION 29.13. Section 542.4031(h), Transportation Code, is
4 repealed.

5 SECTION 29.14. This article applies only to the distribution
6 of revenue collected on or after the effective date of this
7 article. The distribution of revenue collected before the
8 effective date of this article is governed by the law in effect at
9 the time the revenue was collected, and that law is continued in
10 effect for the purpose of the distribution of that revenue.

11 SECTION 29.15. (a) Except as provided by Subsection (b) of
12 this section, this article takes effect September 1, 2007.

13 (b) Section 29.03 of this article takes effect immediately if
14 this Act receives a vote of two-thirds of all the members elected
15 to each house, as provided by Section 39, Article III, Texas
16 Constitution. If this Act does not receive the vote necessary for
17 immediate effect, Section 29.03 takes effect September 1, 2007.

18 ARTICLE 30. TOLL PROJECT EQUITY FUND

19 SECTION 30.01. Section 1232.003, Government Code, is amended
20 by adding Subdivision (10) to read as follows:

21 (10) "Toll project entity" means an entity, other than
22 the Texas Department of Transportation, that is authorized by law
23 to acquire, design, construct, operate, and maintain a toll project
24 or turnpike project, including:

25 (A) a regional tollway authority operating under

1 Chapter 366, Transportation Code;

2 (B) a regional mobility authority operating under
3 Chapter 370, Transportation Code; or

4 (C) a county or local government corporation
5 operating under Chapter 284, Transportation Code.

6 SECTION 30.02. Chapter 1232, Government Code, is amended by
7 adding Subchapter E to read as follows:

8 SUBCHAPTER E. TOLL FACILITIES

9 Sec. 1232.251. TOLL PROJECT EQUITY FUND. (a) The toll
10 project equity fund is a special account in the general revenue
11 fund. Except as otherwise provided by this subchapter, the toll
12 project equity fund may be used only for loans made under Section
13 1232.252. The toll project equity fund is exempt from the
14 application of Section 403.095.

15 (b) The authority shall deposit to the credit of the toll
16 project equity fund all loan payments made by a toll project entity
17 for a loan under Section 1232.252. The loan payments shall be
18 used:

19 (1) to provide for the payment of the principal of,
20 interest on, and any premium on any general obligation bonds and
21 notes issued under this subchapter, including any amounts under a
22 related credit agreement; or

23 (2) to the extent necessary, to reimburse the general
24 revenue fund for money appropriated to pay those obligations.

25 (c) At the time and in the manner prescribed by the

1 comptroller, the authority shall transfer the amount necessary to
2 reimburse the general revenue fund, if any, to the comptroller for
3 deposit to the credit of the undedicated portion of the general
4 revenue fund.

5 (d) The toll project equity fund consists of the proceeds of
6 bonds and notes issued by the authority under this subchapter and
7 deposited to the credit of the toll project equity fund, loan
8 payments deposited under Subsection (b), investment income, and
9 interest earned on money in the toll project equity fund.

10 Sec. 1232.252. LOANS FOR TOLL OR TURNPIKE PROJECTS. (a) The
11 authority may provide a loan to a toll project entity for a toll or
12 turnpike project if the toll project entity is authorized to
13 develop, finance, refinance, construct, and operate the project
14 under Section 229.304(f), Transportation Code. The loan shall be
15 made from the toll project equity fund established under Section
16 1232.251.

17 (b) A toll project entity may submit an application to the
18 authority for a loan under this section if the toll or turnpike
19 project for which financial assistance is sought is the subject of
20 an active procurement conducted by the Texas Department of
21 Transportation under Subchapter E, Chapter 223, Transportation
22 Code.

23 (c) An application submitted under this section may include a
24 request for a reservation of a portion of the amount of any general
25 obligation bonds and notes the authority may issue each year under

1 this subchapter.

2 (d) On receiving an application for a loan under this
3 section, the authority shall confirm that the project is the
4 subject of an active procurement. If the authority determines that
5 a project is the subject of an active procurement, the authority
6 shall, in accordance with the criteria adopted by the board under
7 Section 1232.253:

8 (1) analyze the creditworthiness of the project,
9 including determining whether any financing for the project has
10 appropriate security features, such as a rate covenant, to ensure
11 repayment; and

12 (2) confirm, through a preliminary rating opinion letter
13 provided by the toll project entity, whether the project's senior
14 debt obligations, if any, have the potential to attain an
15 investment grade rating.

16 (e) If the authority determines that the financial assistance
17 will be used for a project that is the subject of an active
18 procurement and that the project is financially feasible including,
19 if applicable, that the senior debt obligations to be issued for
20 the project have the potential to attain an investment grade
21 rating, the authority may approve a reservation and conditionally
22 award a loan to the toll project entity for the project, subject to
23 the toll project entity being authorized to develop, finance,
24 refinance, construct, and operate the project under Section
25 228.304(f), Transportation Code. After authorization under that

1 section, the toll project entity shall enter into a written loan
2 commitment obligating the toll project entity to accept a loan from
3 the authority within certain financial parameters established by
4 the authority. The loan commitment is binding on the toll project
5 entity and must require the toll project entity to accept a loan
6 from the authority that satisfies the financial parameters set
7 forth in the commitment.

8 (f) After execution of a loan commitment, the authority may
9 issue general obligation bonds or notes under this subchapter, if
10 constitutionally authorized, or revenue bonds under Section
11 1232.257 in an amount necessary to fund the loan. The authority
12 shall determine the amount and time of a bond issue to best provide
13 funds for one or multiple loans. Before the funding of a loan, the
14 toll project entity shall enter into a written loan agreement with
15 the authority containing the terms and conditions of the loan,
16 including the loan repayment requirements.

17 (g) The authority shall administer the loans to ensure full
18 repayment of the amount of the loan.

19 Sec. 1232.253. LOAN PROCESS. (a) The board shall adopt
20 rules providing the criteria for evaluating the creditworthiness
21 and financial feasibility of a project and approving a loan. The
22 authority shall adopt a loan application form. The application
23 form may include:

24 (1) the name of the toll project entity and its
25 principal officers;

1 (2) a description of the project and its significance;
2 (3) the total cost of the project;
3 (4) the amount of financial assistance requested;
4 (5) the plan for repaying the loan; and
5 (6) any other information the authority requires to
6 perform its duties and to protect the public interest.

7 (b) Until an agreement to develop, finance, refinance,
8 construct, and operate the project is entered into, a loan
9 application submitted by a toll project entity is confidential and
10 is not subject to disclosure, inspection, or copying under Chapter
11 552, Government Code.

12 Sec. 1232.254. INCURRENCE OF DEBT BY TOLL PROJECT ENTITY.

13 (a) A toll project entity may borrow money from the authority,
14 including by direct loan.

15 (b) A toll project entity may enter into a loan commitment
16 and a loan agreement with the authority to provide financing for an
17 eligible project. The toll project entity shall secure its
18 repayment obligations by a pledge of revenue of the toll project
19 entity derived from the toll or turnpike project.

20 (c) Money borrowed must be segregated from other funds under
21 the control of the toll project entity and may be used only for
22 purposes related to a specific toll or turnpike project.

23 (d) The authority granted by this section does not affect the
24 ability of a toll project entity to incur debt using other
25 statutorily authorized methods.

1 Sec. 1232.255. ISSUANCE OF GENERAL OBLIGATION BONDS AND
2 NOTES. (a) The authority may issue and sell general obligation
3 bonds and notes of the state as authorized by Section 49-p, Article
4 III, Texas Constitution, for the purpose of providing money to make
5 loans to toll project entities under Section 1232.252. The
6 aggregate principal amount of bonds and notes that are issued each
7 year by the authority may not exceed \$3 billion, not including
8 refunding bonds. The authority may determine the structure of the
9 bonds to be issued so as to best provide funds for loans, including
10 the issuance of interest only bonds and capital appreciation bonds.

11 (b) The proceeds of the bonds and notes shall be deposited
12 into the toll project equity fund or into other separate funds as
13 may be required to provide for payment of issuance costs of the
14 bonds and notes and the loans and administrative costs of the loan
15 program and may be used as authorized by Section 49-p, Article III,
16 Texas Constitution, including:

17 (1) to fund loans approved by the authority under
18 Section 1232.252;

19 (2) to pay the costs of issuing and selling the bonds
20 and notes; and

21 (3) to pay the costs of administering the bonds and
22 notes and the loan program, including the payment of fees and
23 expenses of advisors.

24 (c) In connection with bonds or notes issued under this
25 section, the authority may enter into one or more credit

1 agreements, including interest rate lock agreements, at any time
2 for a period and on conditions the authority approves.

3 Sec. 1232.256. APPROPRIATION REQUIRED. If the authority
4 determines that there will not be sufficient money in the
5 applicable interest and sinking accounts during the following
6 biennium that is available to pay the principal of and interest on
7 any outstanding bonds or notes issued under Section 1232.255 that
8 mature or become due during that biennium, including an amount
9 sufficient to make payments under a related credit agreement, in
10 accordance with Section 49-p, Article III, Texas Constitution,
11 general revenue shall be appropriated to the authority and the
12 comptroller shall transfer to the applicable interest and sinking
13 accounts money from the general revenue fund in amounts sufficient
14 to pay the obligations.

15 Sec. 1232.257. ISSUANCE OF REVENUE BONDS. (a) The authority
16 may issue and sell revenue bonds to provide money to make loans to
17 toll project entities under Section 1232.252. The authority may
18 issue bonds for a toll or turnpike project secured by a lien on the
19 revenue of the project subordinate to the lien on the revenue
20 securing other bonds issued for the project.

21 (b) The principal of, interest on, and any redemption premium
22 on bonds issued by the authority under this section are payable
23 solely from:

24 (1) the revenue of the toll or turnpike project for
25 which the bonds are issued;

1 (2) the proceeds of bonds issued for the project;
2 (3) the amounts deposited in a debt service reserve fund
3 as required by the trust agreement securing bonds issued for the
4 project; and

5 (4) amounts received under a credit agreement relating
6 to the project for which the bonds are issued.

7 (c) Bonds issued under this section do not constitute a debt
8 of the state or a pledge of the faith and credit of the state.
9 Each bond must contain on its face a statement to the effect that:

10 (1) the state, the board, the authority, and the toll
11 project entity and its governing board are not obligated to pay the
12 principal of or interest on the bond from a source other than the
13 amount pledged to pay the principal of and interest on the bond;
14 and

15 (2) the faith and credit and the taxing power of the
16 state are not pledged to the payment of the principal of or
17 interest on the bond.

18 (d) A lien on or a pledge of revenue, a contract payment, or
19 a pledge of money to the payment of bonds issued under this
20 section:

21 (1) is valid and effective in accordance with Chapter
22 1208, Government Code;

23 (2) is enforceable in any court at the time of payment
24 for and delivery of the bond;

25 (3) applies to each item on hand or subsequently

1 received;

2 (4) applies without physical delivery of an item or
3 other act; and

4 (5) is enforceable in any court against any person
5 having a claim, in tort, contract, or other remedy, against the
6 board or the authority without regard to whether the person has
7 notice of the lien or pledge.

8 Sec. 1232.258. TRUST AGREEMENT. (a) Bonds issued under
9 Section 1232.257 may be secured by a trust agreement between the
10 authority and a corporate trustee that is a trust company or a bank
11 that has the powers of a trust company.

12 (b) A trust agreement may pledge or assign the tolls and
13 other revenue to be received but may not convey or mortgage any
14 part of a toll or turnpike project.

15 (c) A trust agreement may not evidence a pledge of the
16 revenue of a toll project except:

17 (1) to pay the principal of, interest on, and any
18 redemption premium on the bonds as they become due and payable;

19 (2) to create and maintain reserves for the purposes
20 described by Subdivision (1); and

21 (3) as otherwise provided by law.

22 (d) A trust agreement may:

23 (1) set forth the rights and remedies of the bondholders
24 and the trustee;

25 (2) restrict the individual right of action by

1 bondholders as is customary in trust agreements or trust indentures
2 securing corporate bonds and debentures; and

3 (3) contain provisions the authority determines
4 reasonable and proper for the security of the bondholders.

5 Sec. 1232.259. PROVISIONS PROTECTING AND ENFORCING RIGHTS AND
6 REMEDIES OF BONDHOLDERS. A trust agreement or resolution providing
7 for the issuance of bonds under Section 1232.257 may contain
8 provisions to protect and enforce the rights and remedies of the
9 bondholders, including covenants:

10 (1) establishing the authority's duties relating to:

11 (A) the design, development, financing,
12 construction, improvement, expansion, maintenance, repair,
13 operation, and insurance of the toll project in connection with
14 which the bonds were authorized; and

15 (B) the custody, safeguarding, and application of
16 money;

17 (2) prescribing events that constitute default; and

18 (3) relating to the rights, powers, liabilities, or
19 duties that arise on the breach of a duty of the authority,
20 including the right of the trustee to bring actions against the
21 authority in any state court to enforce the covenants in the
22 agreement, and the sovereign immunity of the state is waived for
23 that purpose.

24 Sec. 1232.260. TRUST FUND. (a) All money received from the
25 proceeds from the sale of bonds issued under Section 1232.257 or as

1 revenue pledged to the payment of those bonds is a trust fund to be
2 held and applied as provided by this section. Notwithstanding any
3 other law and without the prior approval of the comptroller, funds
4 described by this section shall be held in trust by a banking
5 institution chosen by the authority or, at the discretion of the
6 authority, in trust in the state treasury outside the general
7 revenue fund.

8 (b) The resolution authorizing the issuance of bonds or the
9 trust agreement securing the bonds shall provide that an officer to
10 whom or a bank or trust company to which the money is paid shall
11 act as trustee of the money and shall hold and apply the money for
12 the purpose of the resolution or trust agreement, subject to this
13 subchapter and the resolution or trust agreement.

14 Sec. 1232.261. REMEDIES. Except to the extent restricted by
15 a trust agreement, a holder of a bond issued under Section 1232.257
16 and a trustee under a trust agreement may:

17 (1) protect and enforce by a legal proceeding in any
18 court a right under:

19 (A) this subchapter or another law of this state;
20 (B) the trust agreement; or
21 (C) the resolution authorizing the issuance of the
22 bond; and

23 (2) compel the performance of a duty under this
24 subchapter, the trust agreement, or the resolution that the board
25 or the authority or an officer of the board or the authority is

1 required to perform.

2 Sec. 1232.262. EXEMPTION FROM TAXATION OR ASSESSMENT. Bonds
3 issued under this subchapter and income from the bonds, including
4 any profit made on the sale or transfer of the bonds, are exempt
5 from taxation in this state.

6 SECTION 30.03. Sections 1232.255 and 1232.256, Government
7 Code, as added by this article, take effect on the date on which
8 the constitutional amendment proposed by __.J.R. No. __, 80th
9 Legislature, Regular Session, 2007, takes effect. If that amendment
10 is not approved by the voters, those sections do not take effect.

11 ARTICLE 31. EFFECTIVE DATE

12 SECTION 31.01. Except as otherwise provided by this Act, this
13 Act takes effect September 1, 2007.