

By: Krusee, Delisi

H.B. No. 3588

Substitute the following for H.B. No. 3588:

By: Phillips

C.S.H.B. No. 3588

A BILL TO BE ENTITLED

AN ACT

relating to the construction, acquisition, financing, maintenance, management, operation, ownership, and control of transportation facilities and the progress, improvement, policing, and safety of transportation in the state.

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

ARTICLE I. TRANS-TEXAS CORRIDOR

SECTION 1.01. The heading to Title 6, Transportation Code, is amended to read as follows:

TITLE 6. ROADWAYS AND TRANS-TEXAS CORRIDOR

SECTION 1.02. The heading to Subtitle B, Title 6, Transportation Code, is amended to read as follows:

SUBTITLE B. STATE HIGHWAY SYSTEM AND TRANS-TEXAS CORRIDOR

SECTION 1.03. Subtitle B, Title 6, Transportation Code, is amended by adding Chapter 227 to read as follows:

CHAPTER 227. TRANS-TEXAS CORRIDOR

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 227.001. SHORT TITLE. This chapter may be cited as the Trans-Texas Corridor Act.

Sec. 227.002. LEGISLATIVE INTENT AND CONSTRUCTION. (a) Transportation vitally affects the economy of this state and the public interest and welfare of its citizens. It is the policy of this state to exercise the full extent of its constitutional power to ensure the development of a new generation of facilities known as

1 the Trans-Texas Corridor. The Trans-Texas Corridor will combine  
2 various facilities, including free highways, turnpikes, freight  
3 rail, passenger and commuter rail, pipelines, communications  
4 lines, and other utilities. These integrated corridors will  
5 enhance the safety of travelers, relieve congestion, and protect  
6 the human and natural environment by serving population centers  
7 without directing traffic into heavily populated areas. Through  
8 these safe and environmentally sound integrated corridors, the  
9 Trans-Texas Corridor will provide for the secure and reliable  
10 transportation of people, property, power, and information in ways  
11 that will benefit all citizens of this state.

12 (b) The purpose of this chapter is to provide the commission  
13 and the department with all powers necessary or convenient to the  
14 construction and operation of the Trans-Texas Corridor. These  
15 powers include the ability to use innovative financing and  
16 contracting tools to permit the expeditious construction of the  
17 Trans-Texas Corridor with a high degree of flexibility and  
18 efficiency.

19 (c) It is the intent of the legislature that in exercising  
20 the powers under this chapter the commission and the department  
21 will solicit and consider the views of all persons through an active  
22 program of public hearings, meetings, and opportunities for written  
23 comment on proposed courses of action and will encourage efficiency  
24 at all levels of private involvement by fostering a competitive  
25 environment that will challenge private enterprise, reward  
26 innovation, and achieve the best value for the state.

27 (d) This chapter shall be liberally construed to achieve its

1 purposes.

2 Sec. 227.003. DEFINITIONS. In this chapter:

3 (1) "Bond" includes a note or other obligation.

4 (2) "Construction" includes extension, expansion, and  
5 improvement.

6 (3) "Facility" means:

7 (A) a state highway;

8 (B) a turnpike;

9 (C) a freight or passenger railroad, including a  
10 commuter railroad, intercity railroad, and high-speed railroad;

11 (D) a public utility facility;

12 (E) any other mechanism for transporting people,  
13 property, power, or information that relies on or benefits from  
14 fixed structures; or

15 (F) any structure that is reasonably necessary  
16 for the effective operation of a method of transportation,  
17 including an intermodal transfer or staging area, weigh station,  
18 inspection station, rest area, service station, restaurant, train  
19 or bus station, warehouse, freight interchange, switching yard,  
20 maintenance yard, and pipeline pumping station.

21 (4) "Fee" includes any charge, toll, rent, lease  
22 payment, user fee, franchise fee, percentage fee, license fee,  
23 fare, tariff, or other consideration received in return for the use  
24 of:

25 (A) property that is part of the Trans-Texas  
26 Corridor;

27 (B) a facility on the Trans-Texas Corridor; or

1                   (C) a service that is offered in connection with  
2 the Trans-Texas Corridor.

3                   (5) "Operation" includes maintenance and repair.

4                   (6) "Public utility facility" means:

5                   (A) a water, wastewater, natural gas, or  
6 petroleum pipeline or facility;

7                   (B) an electric transmission or distribution  
8 facility; or

9                   (C) telecommunications infrastructure,  
10 including fiber optic cable, conduit, and wireless communications  
11 facilities.

12                   (7) "Trans-Texas Corridor" means the statewide system  
13 of facilities designated by the commission under this chapter.

14                   (8) "Turnpike" has the meaning assigned to turnpike  
15 project under Section 361.001.

16                   Sec. 227.004. RULES. The commission may adopt rules and the  
17 department may implement procedures and forms as necessary or  
18 convenient to implement and administer this chapter.

19                   Sec. 227.005. APPLICABILITY OF OTHER LAW. (a) All laws  
20 governing the financing, design, construction, maintenance, or  
21 operation of a highway in the state highway system apply to the  
22 financing, design, construction, maintenance, or operation of a  
23 highway under this chapter unless in conflict with this chapter.

24                   (b) All laws governing the financing, design, construction,  
25 maintenance, or operation of a turnpike by the department apply to  
26 the financing, design, construction, maintenance, or operation of a  
27 turnpike under this chapter unless in conflict with this chapter.

1 [Sections 227.006-227.010 reserved for expansion]

2 SUBCHAPTER B. ESTABLISHMENT

3 Sec. 227.011. DESIGNATION. The commission shall designate  
4 facilities for the Trans-Texas Corridor.

5 Sec. 227.012. ROUTE SELECTION. The commission shall  
6 consider the following criteria when selecting a route for a  
7 segment of the Trans-Texas Corridor:

8 (1) current and projected traffic patterns;

9 (2) the safety of motorists;

10 (3) potential risks to persons from spills or  
11 accidents of any kind;

12 (4) environmental effects, including the effect on air  
13 quality;

14 (5) current and projected economic development;

15 (6) the current and projected need for additional  
16 transportation options; and

17 (7) system connectivity.

18 Sec. 227.013. PUBLIC PARTICIPATION. Before designating a  
19 route for a segment of the Trans-Texas Corridor, the department  
20 shall hold at least one public hearing.

21 Sec. 227.014. ESTABLISHMENT OF DISCRETE SYSTEMS. (a) If  
22 the commission determines that the mobility needs of this state  
23 would be most efficiently and economically met by jointly operating  
24 two or more facilities as one operational and financial enterprise,  
25 it may create a system composed of those facilities. The commission  
26 may create more than one system and may combine two or more systems  
27 into one system. The commission may finance, construct, and

1 operate an additional facility as an expansion of a system if the  
2 commission determines that the facility would most efficiently and  
3 economically be constructed and operated if it were a part of the  
4 system and that the addition will benefit the system.

5 (b) The revenue of a system must be accounted for separately  
6 and may not be commingled with the revenue of a facility that is not  
7 a part of the system.

8 Sec. 227.015. LOCATION OF FACILITIES. Notwithstanding any  
9 other law, including Chapter 181, Utilities Code, Chapter 402,  
10 Local Government Code, and Section 49.220, Water Code, the  
11 department may:

12 (1) specify the location of any facility on the  
13 Trans-Texas Corridor; and

14 (2) direct the time and manner of construction or  
15 operation of any facility on the Trans-Texas Corridor.

16 [Sections 227.016-227.020 reserved for expansion]

17 SUBCHAPTER C. DEVELOPMENT AND OPERATION

18 Sec. 227.021. AUTHORITY OF DEPARTMENT. (a) The department  
19 may:

20 (1) construct or operate any facility as part of the  
21 Trans-Texas Corridor; or

22 (2) authorize a governmental or private entity to  
23 construct or operate a facility that is part of the Trans-Texas  
24 Corridor.

25 (b) Subject to Section 227.029, the department may grant or  
26 deny access to the Trans-Texas Corridor.

27 Sec. 227.022. PARTICIPATION BY OTHER ENTITIES. (a) A toll

1 or non-toll highway on the Trans-Texas Corridor that is constructed  
2 or operated by another entity shall be part of the state highway  
3 system. This subsection applies even if the entity constructing or  
4 operating the highway is not independently authorized to construct  
5 or operate a highway that is part of the state highway system.

6 (b) If the department authorizes another governmental  
7 entity to construct or operate a facility on the Trans-Texas  
8 Corridor, that entity has each power of the department under this  
9 chapter with respect to that facility, including the right to  
10 collect fees, except that any property acquired by the entity shall  
11 be held in the name of the state.

12 (c) Notwithstanding any other law, if the department  
13 authorizes another governmental entity to construct or operate a  
14 facility on the Trans-Texas Corridor, that entity may construct or  
15 operate the facility without regard to any geographic limit on the  
16 entity's jurisdiction.

17 (d) If the department authorizes another governmental  
18 entity to construct or operate a facility on the Trans-Texas  
19 Corridor, that entity is liable for a claim relating to the  
20 Trans-Texas Corridor only to the extent that the department would  
21 be liable if it were constructing or operating the facility.

22 Sec. 227.023. PARTICIPATION BY PRIVATE ENTITIES. (a) To  
23 the maximum extent practical and economical, the department shall  
24 encourage the participation of private entities in the construction  
25 and operation of facilities.

26 (b) The department shall contract with a private entity to  
27 operate a railroad using rail facilities owned by the department

1 and may not use department employees to operate a railroad. The  
2 department may maintain a rail facility directly or through a  
3 private entity.

4 (c) To remove barriers to participation by small and  
5 disadvantaged businesses, the department shall apply the same  
6 procedures to exclusive development agreements that it applies to  
7 contracts entered under other construction and design contracts.  
8 The department shall encourage participation by small and  
9 disadvantaged businesses in the performance of exclusive  
10 development agreements.

11 Sec. 227.024. HIGHWAYS. A highway, including a turnpike,  
12 on the Trans-Texas Corridor is a part of the state highway system.

13 Sec. 227.025. VEHICLE SIZE AND WEIGHT LIMITS. (a) The  
14 commission may authorize the operation of a vehicle that exceeds  
15 the height, length, or gross weight limitations of Subchapter C,  
16 Chapter 621, on a segment of a highway on the Trans-Texas Corridor  
17 if supported by an engineering and traffic study that includes an  
18 analysis of the structural capacity of bridges and pavements,  
19 current and projected traffic patterns and volume, and potential  
20 effects on public safety.

21 (b) This section does not authorize the operation of a  
22 vehicle that exceeds a maximum axle weight authorized by Chapter  
23 621, 622, or 623.

24 Sec. 227.026. ACQUISITION OF PERSONAL PROPERTY. (a) The  
25 department may acquire rolling stock or other personal property  
26 under a conditional sales contract, lease, equipment trust  
27 certificate, or other form of contract or trust agreement for use in



1 connection with a facility.

2 (b) The department may enter into an agreement with a rail  
3 operator, transportation common carrier, transportation system, or  
4 any other entity for the common use of any facility.

5 (c) The department may enter into agreements with a public  
6 or private utility, the owner or operator of a communications  
7 system, utility common carrier, or transportation system, or  
8 another entity for the common use of a public utility facility.

9 Sec. 227.027. ENVIRONMENTAL REVIEW. (a) The department  
10 shall conduct or approve each environmental evaluation or study  
11 required for an activity associated with the Trans-Texas Corridor.

12 (b) The commission may allocate responsibilities for  
13 conducting environmental evaluations or studies or preparing  
14 environmental documentation among entities involved in the  
15 construction or operation of any facility of the Trans-Texas  
16 Corridor.

17 Sec. 227.028. ENVIRONMENTAL MITIGATION. (a) The  
18 department may acquire, maintain, hold, restore, enhance, develop,  
19 or redevelop property for the purpose of mitigating a past,  
20 present, or future adverse environmental effect arising from the  
21 construction or operation of any part of the Trans-Texas Corridor  
22 without regard to whether the need for mitigation is established  
23 for a particular project.

24 (b) The department may contract with a governmental or  
25 private entity to maintain, control, hold, restore, enhance,  
26 develop, or redevelop property for the mitigation of a past,  
27 present, or future adverse environmental effect arising from the

1 construction or operation of any part of the Trans-Texas Corridor  
2 without regard to whether the need for mitigation has already been  
3 established for a particular project.

4 (c) If authorized by the applicable regulatory authority,  
5 the department may pay a sum of money to an appropriate governmental  
6 or private entity instead of acquiring or managing property for the  
7 mitigation of a past, present, or future adverse environmental  
8 effect arising from construction or operation of any part of the  
9 Trans-Texas Corridor without regard to whether the need for  
10 mitigation has already been established for a particular project.

11 Sec. 227.029. RELOCATION OF EXISTING FACILITIES. (a) The  
12 department may construct a grade separation at an intersection of a  
13 Trans-Texas Corridor facility with another facility and may change  
14 the line or grade of a facility to accommodate the facility to the  
15 design of a grade separation. The department shall pay the cost of  
16 a grade separation and any damage incurred in changing a line or  
17 grade of a facility.

18 (b) If the department finds it necessary to change the  
19 location of a portion of a facility, it shall reconstruct the  
20 facility at the location the department determines to be most  
21 favorable. The reconstructed facility must be of substantially the  
22 same type and in as good condition as the original facility. The  
23 department shall determine and pay the cost of the reconstruction  
24 and any damage incurred in changing the location of a facility.

25 (c) This section does not apply to the conversion of any  
26 highway that is a part of the state highway system to a highway of  
27 the Trans-Texas Corridor.

1       Sec. 227.030. UNAUTHORIZED USE. The department may remove  
2 unauthorized personal property, including a vehicle, from the  
3 Trans-Texas Corridor without notice and at the owner's expense.  
4 Removed property may be stored until claimed by the owner. If a  
5 removed motor vehicle is not claimed by the owner within 72 hours  
6 after the date and time of removal, it shall be considered abandoned  
7 within the meaning of Chapter 683. The department and its employees  
8 are not liable for damage to property that is removed from the  
9 Trans-Texas Corridor under this section.

10       Sec. 227.031. EXCLUSIVE LANES. The department may dedicate  
11 one or more lanes of a highway on the Trans-Texas Corridor to the  
12 exclusive use of designated classes of vehicles.

13       [Sections 227.032-227.040 reserved for expansion]

14               SUBCHAPTER D. RIGHT-OF-WAY ACQUISITION

15       Sec. 227.041. POWERS AND PROCEDURES. (a) The commission  
16 may acquire, in the name of the state, an interest in real property  
17 or a property right, including ownership, an easement, or an  
18 option, that may be necessary or convenient for the construction or  
19 operation of any facility that is part of the Trans-Texas Corridor.  
20 The commission may acquire the interest or the right by  
21 condemnation or by purchase under any terms and conditions.  
22 Property may be purchased for possible use as part of the  
23 Trans-Texas Corridor even if it has not been finally decided that  
24 the Trans-Texas Corridor will be located on that property. Property  
25 may be purchased along alternative potential routes for the  
26 Trans-Texas Corridor even if only one of those potential routes  
27 will be selected as the final route.

1       (b) An interest in real property or a property right is  
2 necessary or convenient for the construction or operation of a  
3 facility if it is located in or contiguous to an existing or planned  
4 segment of the Trans-Texas Corridor and if its acquisition will  
5 further the primary purposes of the Trans-Texas Corridor. Primary  
6 purposes include:

7           (1) providing right-of-way or a location for a  
8 facility;

9           (2) providing land for mitigation of adverse  
10 environmental effects;

11           (3) providing buffer zones for scenic or safety  
12 purposes;

13           (4) allowing for possible future expansion of any  
14 facility; and

15           (5) generating revenue, directly or indirectly, for  
16 use in constructing or operating the Trans-Texas Corridor.

17       (c) Unless in conflict with this chapter, all laws governing  
18 the acquisition of right-of-way for a state highway apply to the  
19 acquisition of right-of-way for the Trans-Texas Corridor. Sections  
20 203.056, 203.057, and 203.058 apply to an acquisition by the  
21 department from a state agency. Compensation to a state agency  
22 under those sections shall be reasonable and may take the form of a  
23 single payment or a participation payment under Section 227.042.

24       Sec. 227.042. CORRIDOR PARTICIPATION PAYMENT FOR REAL  
25 PROPERTY. (a) As an alternative to paying for an interest in real  
26 property or a real property right with a single fixed payment, the  
27 department may, with the owner's consent, pay the owner by means of

1 a corridor participation payment.

2 (b) A right to receive a corridor participation payment  
3 under this section is subordinate to any right to receive a fee as  
4 payment on the principal of or interest on a bond that is issued for  
5 the construction of the applicable segment of the Trans-Texas  
6 Corridor.

7 (c) In this section, "corridor participation payment" means  
8 an intangible legal right to receive a percentage of one or more  
9 identified fees related to a segment of the Trans-Texas Corridor.

10 Sec. 227.043. LEGAL RIGHTS AS PAYMENT FOR REAL PROPERTY. As  
11 an alternative to paying for an interest in real property or a  
12 property right with a single fixed payment, the department may,  
13 with the owner's consent, pay the owner by means of an exclusive or  
14 nonexclusive right to use or operate a facility or a license to  
15 operate a public utility facility on the Trans-Texas Corridor.

16 Sec. 227.044. PURCHASE AND LEASEBACK. The department may  
17 acquire real property for the Trans-Texas Corridor and immediately  
18 lease it back to the former owner for a fixed or indefinite term.

19 Sec. 227.045. DECLARATION OF TAKING. (a) The department  
20 may file a declaration of taking with the clerk of the court:

21 (1) in which the department files a condemnation  
22 petition under Chapter 21, Property Code; or

23 (2) to which the case is assigned.

24 (b) The department may file the declaration of taking  
25 concurrently with or subsequent to the petition but may not file the  
26 declaration after the special commissioners have made an award in  
27 the proceeding.

1           (c) The declaration of taking must include:

2                   (1) a specific reference to the legislative authority  
3 for the condemnation;

4                   (2) a description and plot plan of the real property to  
5 be condemned, including the following information if applicable:

6                           (A) the municipality in which the property is  
7 located;

8                           (B) the street address of the property; and

9                           (C) the lot and block number of the property;

10                   (3) a statement of the property interest to be  
11 condemned;

12                   (4) the name and address of each property owner that  
13 the department can identify after reasonable investigation and a  
14 description of the owner's interest in the property; and

15                   (5) a statement that immediate possession of all or  
16 part of the property is necessary for the timely construction of a  
17 project of the Trans-Texas Corridor.

18           (d) A deposit to the registry of the court of an amount equal  
19 to the appraised value of the property to be condemned, as  
20 determined by the department, must accompany the declaration of  
21 taking.

22           (e) The date on which the declaration is filed is the date of  
23 taking for the purpose of assessing damages to which a property  
24 owner is entitled.

25           (f) After a declaration of taking is filed, the case shall  
26 proceed as any other case under Chapter 21, Property Code.

27           Sec. 227.046. POSSESSION OF PROPERTY. (a) Immediately on

1 the filing of a declaration of taking, the department shall serve a  
2 copy of the declaration on each person possessing an interest in the  
3 condemned property by a method prescribed by Section 21.016(d),  
4 Property Code. The department shall file evidence of the service  
5 with the clerk of the court. On filing of that evidence, the  
6 department may take possession of the property pending further  
7 proceedings.

8 (b) If the condemned property is a homestead or a portion of  
9 a homestead as defined by Section 41.002, Property Code, the  
10 department may not take possession before the 91st day after the  
11 date of service under Subsection (a).

12 (c) A property owner or tenant who refuses to vacate the  
13 property or yield possession is subject to forcible entry and  
14 detainer under Chapter 24, Property Code.

15 Sec. 227.047. RIGHT OF ENTRY. (a) The department or an  
16 authorized agent may enter any real property, water, or premises in  
17 this state to make a survey, sounding, drilling, or examination  
18 determined necessary or appropriate for the purposes of this  
19 chapter.

20 (b) To ensure the safety and convenience of the public, the  
21 department shall, when entering any real property, water, or  
22 premises on which is located a public utility facility:

23 (1) comply with applicable industry standard safety  
24 codes and practices; and

25 (2) notwithstanding Subsection (a), give the owner or  
26 operator of the facility not less than 10 days' notice before  
27 entering the real property, water, or premises.

1 (c) An entry under this section is not:

2 (1) a trespass; or

3 (2) an entry under a pending condemnation proceeding.

4 (d) The department shall make reimbursement for actual  
5 damages to real property, water, or premises that result from an  
6 activity described by Subsection (a) or (b).

7 Sec. 227.048. SEVERANCE OF REAL PROPERTY. (a) If the  
8 Trans-Texas Corridor severs an owner's real property by dividing it  
9 into two or more noncontiguous parcels, the department shall pay:

10 (1) the value of the property acquired; and

11 (2) the damages to the remainder of the owner's  
12 property caused by the severance, including damages caused by the  
13 inaccessibility of one tract from the other.

14 (b) The department may negotiate for and purchase the  
15 remainder of the severed real property or either part of the severed  
16 real property.

17 Sec. 227.049. DONATIONS. The department may accept  
18 donations of an interest in real property from any person for use in  
19 connection with the Trans-Texas Corridor. Notwithstanding any  
20 other law, including Chapter 575, Government Code, the commission  
21 may adopt rules authorizing the department to accept a gift of real  
22 property from any local, state, or federal governmental entity  
23 without formal acknowledgment by the commission.

24 Sec. 227.050. OTHER GOVERNMENTAL ENTITIES. If the  
25 department authorizes another governmental entity to construct or  
26 operate a segment of or a facility on the Trans-Texas Corridor, that  
27 entity has all the powers and duties of the department under this



1 subchapter.

2 Sec. 227.051. COST OF RELOCATING PUBLIC UTILITY FACILITY.

3 (a) Subject to the department's reasonable regulations pertaining  
4 to public health, safety, and welfare, a telecommunications utility  
5 or a telecommunications utility holding a certificate of  
6 convenience and necessity, certificate of authority, or service  
7 provider certificate of authority shall recover from the department  
8 its reasonable costs to relocate a public utility facility to  
9 accommodate the development or construction of the Trans-Texas  
10 Corridor.

11 (b) An owner of a public utility facility is not obligated  
12 to relocate the utility facility on the Trans-Texas Corridor if the  
13 owner determines that another location is feasible.

14 (c) If a public utility facility is located on the  
15 Trans-Texas Corridor, the department shall grant the owner  
16 reasonable access to operate and maintain the utility facility.

17 [Sections 227.052-227.060 reserved for expansion]

18 SUBCHAPTER E. FINANCING

19 Sec. 227.061. PERMISSIBLE SOURCES OF FUNDING. To the full  
20 extent permitted by the constitution, but subject to Section  
21 227.0615, the department may use any available source of funding in  
22 acquiring property for, constructing, and operating the  
23 Trans-Texas Corridor, including:

24 (1) an appropriation from the state highway fund for  
25 construction or maintenance of highways;

26 (2) a fee;

27 (3) proceeds from a bond secured by fees;

1           (4) proceeds from an obligation secured by the Texas  
2 Mobility Fund;

3           (5) a donation, in kind or in cash;

4           (6) a private investment;

5           (7) money transferred from the state infrastructure  
6 bank;

7           (8) a contribution from or contractual obligation of a  
8 governmental entity; and

9           (9) a loan, grant, or reimbursement from the federal  
10 government, subject to Section 227.0615.

11           Sec. 227.0615. LIMITATION ON DEPARTMENT FINANCIAL  
12 PARTICIPATION. (a) Each fiscal year, the total amount disbursed by  
13 the department out of the state highway fund for acquiring property  
14 for and the initial construction of facilities of the Trans-Texas  
15 Corridor may not exceed 20 percent of the obligation authority  
16 under the federal-aid highway program that is distributed to this  
17 state in that year.

18           (b) The limitation under Subsection (a) does not apply to:

19           (1) money spent for:

20                   (A) feasibility studies, environmental studies,  
21 and preliminary engineering conducted before the initial  
22 construction of a facility; or

23                   (B) maintenance or reconstruction of a facility;

24           (2) the proceeds of bonds or other public securities  
25 issued to pay the cost of a facility deposited to the credit of the  
26 state highway fund;

27           (3) revenue attributable to a facility deposited to

1 the credit of the state highway fund;

2 (4) loans deposited to the credit of the state highway  
3 fund; or

4 (5) contributions from a public or private entity that  
5 are deposited to the credit of the state highway fund.

6 Sec. 227.062. REVENUE BONDS. (a) The commission by order  
7 may authorize the issuance of bonds to pay all or part of the cost of  
8 a facility or system established under Section 227.014, to refund  
9 any bonds previously issued for the facility or system, or to pay  
10 for all or part of the cost of a facility or system that will become  
11 a part of another system.

12 (b) As determined in the order authorizing the issuance, the  
13 bonds of each issue shall:

14 (1) be dated;

15 (2) bear interest at the rate or rates provided by the  
16 order and beginning on the dates provided by the order and as  
17 authorized by law, or bear no interest;

18 (3) mature at the time or times provided by the order,  
19 not exceeding 40 years from their date or dates; and

20 (4) be made redeemable before maturity at the price or  
21 prices and under the terms provided by the order.

22 (c) The commission may sell the bonds at public or private  
23 sale in the manner and for the price it determines to be in the best  
24 interest of the department.

25 (d) The proceeds of each bond issue shall be disbursed in  
26 the manner and under any restrictions provided in the order  
27 authorizing the issuance.

1       (e) Additional bonds may be issued in the same manner to pay  
2 the costs of a facility or system. Unless otherwise provided in the  
3 order authorizing the issuance, the additional bonds shall be on a  
4 parity, without preference or priority, with bonds previously  
5 issued for that facility or system. In addition, the commission may  
6 issue bonds for a facility or system secured by a lien on the  
7 revenue of the facility or system subordinate to the lien on the  
8 revenue securing other bonds issued for the facility or system.

9       (f) If the proceeds of a bond issue exceed the cost of the  
10 facility or system for which the bonds were issued, the surplus  
11 shall be segregated from the other money of the commission and used  
12 only for the purposes specified in the order authorizing the  
13 issuance.

14       (g) Bonds issued and delivered under this chapter and  
15 interest coupons on the bonds are a security under Chapter 8,  
16 Business & Commerce Code.

17       (h) Bonds issued under this chapter and income from the  
18 bonds, including any profit made on the sale or transfer of the  
19 bonds, are exempt from taxation in this state.

20       (i) In issuing bonds the proceeds of which are to be used  
21 solely for a turnpike, the commission may exercise any additional  
22 power granted by Subchapter E, Chapter 361.

23       Sec. 227.063. INTERIM BONDS. (a) The commission may,  
24 before issuing definitive bonds, issue interim bonds, with or  
25 without coupons, exchangeable for definitive bonds.

26       (b) The interim bonds may be authorized and issued in  
27 accordance with this chapter, without regard to a requirement,

1 restriction, or procedural provision in any other law.

2 (c) An order authorizing interim bonds may provide that the  
3 interim bonds recite that the bonds are issued under this chapter.  
4 The recital is conclusive evidence of the validity and the  
5 regularity of the bonds' issuance.

6 Sec. 227.064. PAYMENT OF BONDS; CREDIT OF STATE NOT  
7 PLEDGED. (a) The principal of, interest on, and any redemption  
8 premium on bonds issued by the commission are payable solely from:

9 (1) the revenue of the facility or system for which the  
10 bonds are issued, including tolls and other fees pledged to pay the  
11 bonds;

12 (2) money derived from any other source available to  
13 the commission, other than money derived from a facility that is not  
14 part of the same system or money derived from a different system,  
15 except to the extent that the surplus revenue of a facility or  
16 system has been pledged for that purpose; and

17 (3) amounts received under a credit agreement relating  
18 to the facility or system for which the bonds are issued.

19 (b) Bonds issued under this chapter do not constitute a debt  
20 of this state or a pledge of the faith and credit of this state.  
21 Each bond must contain on its face a statement to the effect that  
22 the state is not obligated to pay the bond or the interest on the  
23 bond from a source other than the amount pledged to pay the bond and  
24 the interest on the bond, and the faith and credit and taxing power  
25 of this state are not pledged to the payment of the principal of or  
26 interest on the bond.

27 (c) The commission may not incur a financial obligation that

1 cannot be paid from revenue derived from owning or operating a  
2 facility or system or from other revenue provided by law.

3 Sec. 227.065. EFFECT OF LIEN. (a) A lien on or a pledge of  
4 revenue from a facility or system or other money under this chapter  
5 or on a reserve, replacement, or other fund established in  
6 connection with a bond issued under this chapter:

7 (1) is enforceable at the time of payment for and  
8 delivery of the bond;

9 (2) applies to each item on hand or subsequently  
10 received;

11 (3) applies without physical delivery of an item or  
12 other act; and

13 (4) is enforceable against any person having a claim,  
14 in tort, contract, or other remedy, against the commission or the  
15 department without regard to whether the person has notice of the  
16 lien or pledge.

17 (b) An order authorizing the issuance of bonds is not  
18 required to be recorded except in the regular records of the  
19 department.

20 Sec. 227.066. BOND INDENTURE. (a) Bonds under this chapter  
21 may be secured by a bond indenture between the commission and a  
22 corporate trustee that is a trust company or a bank that has the  
23 powers of a trust company.

24 (b) A bond indenture may pledge or assign the fees and other  
25 revenue to be received and other money derived from another source  
26 available to the commission but may not convey or mortgage any part  
27 of a facility or system.

1           (c) A bond indenture may:

2                   (1) set forth the rights and remedies of the  
3 bondholders and the trustee;

4                   (2) restrict the individual right of action by  
5 bondholders as is customary in trust agreements or indentures of  
6 trust securing corporate bonds and debentures; and

7                   (3) contain provisions the commission determines  
8 reasonable and proper for the security of the bondholders,  
9 including covenants:

10                   (A) establishing the commission's duties  
11 relating to:

12                                   (i) the acquisition of property;

13                                   (ii) the construction, maintenance,  
14 operation, and repair of and insurance for a facility or system; and

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

17                                   (B) prescribing events that constitute default;

18                                   (C) prescribing terms on which any or all of the  
19 bonds become or may be declared due before maturity; and

20                                   (D) relating to the rights, powers, liabilities,  
21 or duties that arise on the breach of a duty of the commission.

22           (d) An expense incurred in carrying out a trust agreement or  
23 indenture may be treated as part of the cost of operating a facility  
24 or system.

25           (e) In addition to all other rights by mandamus or other  
26 court proceeding, an owner or trustee of a bond issued under this  
27 chapter may enforce the owner's rights against the commission, the

1 department, or an agent or employee of the commission or department  
2 and is entitled to:

3 (1) require the commission and department to impose  
4 and collect fees, charges, and other revenue sufficient to carry  
5 out any agreement contained in the order authorizing the issuance  
6 of the bond; and

7 (2) apply for and obtain the appointment of a receiver  
8 for the facility or system.

9 Sec. 227.067. APPROVAL OF BONDS BY ATTORNEY GENERAL. (a)  
10 The commission shall submit to the attorney general for examination  
11 the record of proceedings relating to bonds authorized under this  
12 chapter. The record shall include the bond proceedings and any  
13 contract securing or providing revenue for the payment of the  
14 bonds.

15 (b) If the attorney general determines that the bonds, the  
16 bond proceedings, and any supporting contract are authorized by  
17 law, the attorney general shall approve the bonds and deliver to the  
18 comptroller:

19 (1) a copy of the legal opinion of the attorney general  
20 stating the approval; and

21 (2) the record of proceedings relating to the  
22 authorization of the bonds.

23 (c) On receipt of the legal opinion of the attorney general  
24 and the record of proceedings relating to the authorization of the  
25 bonds, the comptroller shall register the record of proceedings.

26 (d) After approval by the attorney general, the bonds, the  
27 bond proceedings, and any supporting contract are valid,



1 enforceable, and incontestable in any court or other forum for any  
2 reason and are binding obligations according to their terms for all  
3 purposes.

4 Sec. 227.068. FURNISHING OF INDEMNIFYING BONDS OR PLEDGES  
5 OF SECURITIES. (a) A bank or trust company incorporated under the  
6 laws of this state that acts as depository of the proceeds of bonds  
7 or of revenue may furnish indemnifying bonds or pledge securities  
8 that an authority requires.

9 (b) Bonds of the commission may secure the deposit of public  
10 money of this state or a political subdivision of this state to the  
11 extent of the lesser of the face value of the bonds or their market  
12 value.

13 Sec. 227.069. APPLICABILITY OF OTHER LAW; CONFLICTS. All  
14 laws affecting the issuance of bonds by local governmental  
15 entities, including Chapters 1201, 1202, 1204, 1207, and 1371,  
16 Government Code, apply to bonds issued under this chapter. To the  
17 extent of a conflict between those laws and this chapter, the  
18 provisions of this chapter prevail.

19 Sec. 227.070. LOANS AND OTHER FUNDING. The department may  
20 borrow money from the United States or use money in the state  
21 infrastructure bank created under Subchapter D, Chapter 222, to  
22 fund the construction or operation of a facility under this  
23 chapter.

24 SUBCHAPTER F. REVENUE

25 Sec. 227.071. FEES. (a) Notwithstanding any other law,  
26 including Chapters 161, 162, 163, and 181, Utilities Code, Chapter  
27 402, Local Government Code, and Chapter 49, Water Code, and except

1 as provided in Subsection (e), the department may require a person,  
2 including a governmental or private entity, to pay a fee as a  
3 condition of using any part of the Trans-Texas Corridor.

4 (b) The commission may establish fees to be imposed by the  
5 department under this chapter. Fees may be set as absolute amounts,  
6 as a percentage of revenue, as a percentage of actual use or  
7 throughput, as a designated portion or percentage of initial  
8 facility funding, or on any other reasonable basis. Subject to  
9 approval by a body having jurisdiction and authority to establish a  
10 tariff, the commission may establish joint fees and divisions of  
11 fees.

12 (c) A fee may exceed the department's costs, but the  
13 commission may not establish a fee that is prohibitive or that  
14 discriminates unreasonably among users or potential users of a  
15 facility.

16 (d) In establishing a fee or the amount of a fee under this  
17 section, the commission shall consider:

18 (1) the acquisition cost of the property being used;

19 (2) if applicable, the value of the property being  
20 transported or of the service being offered;

21 (3) any cost to the department or to the public  
22 occasioned by the use, including environmental effects;

23 (4) comparable fees set by the competitive  
24 marketplace; and

25 (5) the desirable effects of full use of the  
26 Trans-Texas Corridor on the state's economy and its residents.

27 (e) If a public road is replaced or eliminated by the

1 Trans-Texas Corridor and a facility used the right-of-way of that  
2 road under Chapter 161, 162, 163, or 181, Utilities Code, Chapter  
3 402, Local Government Code, or Chapter 49, Water Code, the  
4 department may not require the owner of that facility to pay a fee  
5 as a condition of using a segment of the Trans-Texas Corridor for  
6 the location of a replacement facility.

7 Sec. 227.072. LEASE OF PROPERTY OR RIGHTS. (a) The  
8 department may lease property on the Trans-Texas Corridor to any  
9 public or private entity. A lease may be for a term not longer than  
10 50 years.

11 (b) The department may grant a franchise to use or operate a  
12 facility on the Trans-Texas Corridor. A franchise under this  
13 section may be granted for a term not longer than 50 years.

14 (c) The department may grant an exclusive or nonexclusive  
15 license to access or use any portion of the Trans-Texas Corridor for  
16 any purpose. A license granted under this section may be for a  
17 definite or indefinite term.

18 (d) Property may be leased or a franchise or license granted  
19 for any purpose, including use as a facility and use for unrelated  
20 commercial, industrial, or agricultural purposes.

21 (e) In return for a lease, franchise, or license, the  
22 department may accept anything of value as consideration,  
23 including:

- 24 (1) a cash payment;  
25 (2) installment payments;  
26 (3) one or more payments based on percentages of use or  
27 throughput; and

1           (4) an interest in real or personal property, or an  
2 intangible legal right.

3           Sec. 227.073. DISPOSITION OF FEES. To the extent that it is  
4 not dedicated to another purpose by the constitution, by statute,  
5 or by contract, revenue received by the department under this  
6 chapter shall be deposited to the credit of the state highway fund  
7 and may be used for any purpose authorized by this chapter.  
8 Subchapter D, Chapter 316, Government Code, and Section 403.095,  
9 Government Code, do not apply to revenue received under this  
10 chapter.

11           SECTION 1.04. Subchapter H, Chapter 545, Transportation  
12 Code, is amended by adding Section 545.3531 to read as follows:

13           Sec. 545.3531. AUTHORITY OF TEXAS TRANSPORTATION  
14 COMMISSION TO ESTABLISH SPEED LIMITS ON TRANS-TEXAS CORRIDOR. (a)  
15 Notwithstanding Section 545.352, the Texas Transportation  
16 Commission, by order recorded in its minutes and except as provided  
17 by Subsection (d), may determine and declare on a highway segment of  
18 the Trans-Texas Corridor designated under Chapter 227 a reasonable  
19 and safe prima facie speed limit in excess of a prima facie speed  
20 limit established by Section 545.352.

21           (b) In determining whether a prima facie speed limit is  
22 reasonable and safe, the commission shall conduct an engineering  
23 and traffic investigation and shall consider the width and  
24 condition of the pavement, the usual traffic on the highway  
25 segment, the suitability of existing safety features, and other  
26 circumstances.

27           (c) A prima facie speed limit that is declared by the

1 commission under this section is effective when the department  
2 erects signs giving notice of the new limit. A new limit that is  
3 enacted under this section is effective at all times or at other  
4 times as determined.

5 (d) The commission may not:

6 (1) modify the rules established by Section  
7 545.351(b); or

8 (2) establish a speed limit of more than 85 miles per  
9 hour.

10 (e) The commission, in conducting the engineering and  
11 traffic investigation specified by Subsection (b), shall follow the  
12 "Procedures for Establishing Speed Zones" as adopted by the  
13 commission.

14 SECTION 1.05. This article takes effect immediately if this  
15 Act receives a vote of two-thirds of all the members elected to each  
16 house, as provided by Section 39, Article III, Texas Constitution.  
17 If this Act does not receive the vote necessary for immediate  
18 effect, this article takes effect September 1, 2003.

19 ARTICLE 2. REGIONAL MOBILITY AUTHORITIES

20 SECTION 2.01. Subtitle G, Title 6, Transportation Code, is  
21 amended by adding Chapter 370 to read as follows:

22 CHAPTER 370. REGIONAL MOBILITY AUTHORITIES

23 SUBCHAPTER A. GENERAL PROVISIONS

24 Sec. 370.001. SHORT TITLE. This chapter may be cited as the  
25 Regional Mobility Authority Act.

26 Sec. 370.002. PURPOSES; LIBERAL CONSTRUCTION. (a) The  
27 purposes of this chapter are:

1           (1) to expand and improve transportation facilities  
2 and systems in this state;

3           (2) to promote the consideration and use of multimodal  
4 forms of transportation to address transportation needs in regions  
5 of the state;

6           (3) to create regional mobility authorities to secure  
7 and acquire rights-of-way for urgently needed transportation  
8 systems and to plan, design, construct, operate, expand, extend,  
9 and modify those systems; and

10           (4) to reduce burdens and demands on the limited money  
11 available to the commission and to increase the effectiveness and  
12 efficiency of the commission.

13           (b) This chapter shall be liberally construed to effect its  
14 purposes.

15           Sec. 370.003. DEFINITIONS. In this chapter:

16           (1) "Authority" means a regional mobility authority  
17 organized under this chapter or under Section 361.003, as that  
18 section existed before September 1, 2003.

19           (2) "Board" means the board of directors of an  
20 authority.

21           (3) "Bond" includes a bond, certificate, note, or  
22 other obligation of an authority authorized by this chapter,  
23 another statute, or the Texas Constitution.

24           (4) "Bond proceeding" includes a bond resolution and a  
25 bond indenture authorized by the bond resolution, a credit  
26 agreement, loan agreement, or other agreement entered into in  
27 connection with the bond or the payments to be made under the

1 agreement, and any other agreement between an authority and another  
2 person providing security for the payment of a bond.

3 (5) "Bond resolution" means an order or resolution of  
4 a board authorizing the issuance of a bond.

5 (6) "Bondholder" means the owner of a bond and  
6 includes a trustee acting on behalf of an owner of a bond under the  
7 terms of a bond indenture.

8 (7) "Exclusive development agreement" means an  
9 agreement with a private entity that, at a minimum, provides for the  
10 design and construction of a transportation project and may also  
11 provide for the financing, acquisition, maintenance, or operation  
12 of a transportation project.

13 (8) "Governmental entity" means a political  
14 subdivision of the state, including a municipality or a county, a  
15 political subdivision of a county, a group of adjoining counties, a  
16 district organized or operating under Section 52, Article III, or  
17 Section 59, Article XVI, Texas Constitution, the department, a rail  
18 district, a transit authority, a nonprofit corporation, including a  
19 transportation corporation, that is created under Chapter 431, or  
20 any other public entity or instrumentality.

21 (9) "Highway" means a road, highway, farm-to-market  
22 road, or street under the supervision of the state or a political  
23 subdivision of this state.

24 (10) "Public utility facility" means:

25 (A) a water, wastewater, natural gas, or  
26 petroleum pipeline or facility;

27 (B) an electric transmission or distribution

1 facility; or

2 (C) telecommunications infrastructure,  
3 including fiber optic cable, conduit, and wireless communications  
4 facilities.

5 (11) "Revenue" means fares, fees, rents, tolls, and  
6 other money received by an authority from the ownership or  
7 operation of a transportation project.

8 (12) "Surplus revenue" means revenue that exceeds:

9 (A) an authority's debt service requirements for  
10 a transportation project;

11 (B) coverage requirements of a bond indenture for  
12 a transportation project;

13 (C) costs of operation and maintenance for a  
14 transportation project;

15 (D) cost of repair, expansion, or improvement of  
16 a transportation project;

17 (E) funds allocated for feasibility studies; and

18 (F) necessary reserves as determined by the  
19 authority.

20 (13) "System" means a transportation project or a  
21 combination of transportation projects designated as a system by  
22 the board under Section 370.034.

23 (14) "Transportation project" means:

24 (A) a turnpike project;

25 (B) a system;

26 (C) a passenger or freight rail facility,

27 including:



- 1                    (i) tracks;
- 2                    (ii) a rail line;
- 3                    (iii) switching, signaling, or other
- 4 operating equipment;
- 5                    (iv) a depot;
- 6                    (v) a locomotive;
- 7                    (vi) rolling stock;
- 8                    (vii) a maintenance facility; and
- 9                    (viii) other real and personal property
- 10 associated with a rail operation;
- 11                    (D) a roadway with a functional classification
- 12 greater than a local road or rural minor collector;
- 13                    (E) border crossing inspection stations;
- 14                    (F) a ferry;
- 15                    (G) an airport;
- 16                    (H) a pedestrian or bicycle facility;
- 17                    (I) an air quality improvement initiative;
- 18                    (J) a public utility facility; and
- 19                    (K) if applicable, projects and programs listed
- 20 in the most recently approved state implementation plan for the
- 21 area covered by the authority, including an early action compact.
- 22                    (15) "Turnpike project" means a highway of any number
- 23 of lanes, with or without grade separations, owned or operated by an
- 24 authority under this chapter and any improvement, extension, or
- 25 expansion to that highway, including:
- 26                    (A) an improvement to relieve traffic congestion
- 27 or promote safety;

1                   (B) a bridge, tunnel, overpass, underpass,  
2 interchange, service road, ramp, entrance plaza, approach, or  
3 tollhouse;

4                   (C) an administration, storage, or other  
5 building the authority considers necessary for the operation of a  
6 turnpike project;

7                   (D) a parking area or structure, rest stop, park,  
8 and other improvement or amenity the authority considers necessary,  
9 useful, or beneficial for the operation of a turnpike project; and

10                   (E) a property right, easement, or interest the  
11 authority acquires to construct or operate the turnpike project.

12           Sec. 370.004. CONSTRUCTION COSTS DEFINED. (a) The cost of  
13 acquisition, construction, improvement, extension, or expansion of  
14 a transportation project under this chapter includes the cost of:

15                   (1) the actual acquisition, construction,  
16 improvement, extension, or expansion of the transportation  
17 project;

18                   (2) the acquisition of real property, rights-of-way,  
19 property rights, easements, and other interests in real property;

20                   (3) machinery and equipment;

21                   (4) interest payable before, during, and for not more  
22 than three years after acquisition, construction, improvement,  
23 extension, or expansion as provided in the bond proceedings;

24                   (5) traffic estimates, revenue estimates, engineering  
25 and legal services, plans, specifications, surveys, appraisals,  
26 construction cost estimates, and other expenses necessary or  
27 incidental to determining the feasibility of the acquisition,

1 construction, improvement, extension, or expansion;

2 (6) necessary or incidental administrative, legal,  
3 and other expenses;

4 (7) compliance with laws, regulations, and  
5 administrative rulings, including any costs associated with  
6 necessary environmental mitigation measures;

7 (8) financing; and

8 (9) expenses related to the initial operation of the  
9 transportation project.

10 (b) Costs attributable to a transportation project and  
11 incurred before the issuance of bonds to finance the transportation  
12 project may be reimbursed from the proceeds of sale of the bonds.

13 [Sections 370.005-370.030 reserved for expansion]

14 SUBCHAPTER B. CREATION AND POWERS OF REGIONAL MOBILITY AUTHORITIES

15 Sec. 370.031. CREATION OF A REGIONAL MOBILITY AUTHORITY.

16 (a) At the request of one or more counties, the commission by order  
17 may authorize the creation of a regional mobility authority for the  
18 purposes of constructing, maintaining, and operating  
19 transportation projects in a region of this state. An authority is  
20 governed in accordance with Subchapter F.

21 (b) An authority may not be created without the approval of  
22 the commission under Subsection (a).

23 Sec. 370.0315. ADDITION AND WITHDRAWAL OF COUNTIES. (a)  
24 One or more counties may petition the commission for approval to  
25 become part of an existing authority. The commission may approve  
26 the petition only if:

27 (1) the board has agreed to the addition; and

1           (2) the commission finds that the affected political  
2 subdivisions in the county or counties will be adequately  
3 represented on the board.

4           (b) One or more counties may petition the commission for  
5 approval to withdraw from an authority. The commission may approve  
6 the petition only if:

7                   (1) the authority has no bonded indebtedness; or

8                   (2) the authority has debt other than bonded  
9 indebtedness, but the board has agreed to the withdrawal.

10           (c) A county may not become part of an authority or withdraw  
11 from an authority without the approval of the commission.

12           Sec. 370.032. NATURE OF REGIONAL MOBILITY AUTHORITY. (a)  
13 An authority is a body politic and corporate and a political  
14 subdivision of this state.

15           (b) An authority is a governmental unit as that term is  
16 defined in Section 101.001, Civil Practice and Remedies Code.

17           (c) The exercise by an authority of the powers conferred by  
18 this chapter in the acquisition, design, financing, construction,  
19 operation, and maintenance of a transportation project or system  
20 is:

21                   (1) in all respects for the benefit of the people of  
22 the counties in which an authority operates and of the people of  
23 this state, for the increase of their commerce and prosperity, and  
24 for the improvement of their health, living conditions, and public  
25 safety; and

26                   (2) an essential governmental function of the state.

27           (d) The operations of an authority are governmental, not

1 proprietary, functions.

2 Sec. 370.033. GENERAL POWERS. (a) An authority, through  
3 its board, may:

4 (1) adopt rules for the regulation of its affairs and  
5 the conduct of its business;

6 (2) adopt an official seal;

7 (3) study, evaluate, design, finance, acquire,  
8 construct, maintain, repair, and operate transportation projects,  
9 individually or as one or more systems, provided that a  
10 transportation project that is subject to Subpart C, 23 C.F.R. Part  
11 450, is:

12 (A) included in the plan approved by the  
13 applicable metropolitan planning organization; and

14 (B) consistent with the statewide transportation  
15 plan and the statewide transportation improvement plan;

16 (4) acquire, hold, and dispose of property in the  
17 exercise of its powers and the performance of its duties under this  
18 chapter;

19 (5) enter into contracts or operating agreements with  
20 a similar authority, another governmental entity, or an agency of  
21 the United States, a state of the United States, the United Mexican  
22 States, or a state of the United Mexican States;

23 (6) enter into contracts or agreements necessary or  
24 incidental to its powers and duties under this chapter;

25 (7) cooperate and work directly with property owners  
26 and governmental entities and officials to support an activity  
27 required to promote or develop a transportation project;

1           (8) employ and set the compensation and benefits of  
2 administrators, consulting engineers, attorneys, accountants,  
3 construction and financial experts, superintendents, managers,  
4 full-time and part-time employees, agents, consultants, and other  
5 persons as the authority considers necessary or useful;

6           (9) notwithstanding Sections 221.003 and 222.031 and  
7 subject to Subsection (j), apply for, directly or indirectly  
8 receive and spend loans, gifts, grants, and other contributions for  
9 any purpose of this chapter, including the construction of a  
10 transportation project, and receive and spend contributions of  
11 money, property, labor, or other things of value from any source,  
12 including the United States, a state of the United States, the  
13 United Mexican States, a state of the United Mexican States, the  
14 commission, the department, a subdivision of this state, or a  
15 governmental entity or private entity, to be used for the purposes  
16 for which the grants, loans, or contributions are made, and enter  
17 into any agreement necessary for the grants, loans, or  
18 contributions;

19           (10) install, construct, maintain, repair, renew,  
20 relocate, and remove public utility facilities in, on, along, over,  
21 or under a transportation project;

22           (11) organize a corporation under Chapter 431 for the  
23 promotion and development of transportation projects;

24           (12) adopt and enforce rules not inconsistent with  
25 this chapter for the use of any transportation project, including  
26 tolls, fares, or other user fees, speed and weight limits, and  
27 traffic and other public safety rules;

1           (13) enter into leases, operating agreements, service  
2 agreements, licenses, franchises, and similar agreements with a  
3 public or private party governing the party's use of all or any  
4 portion of a transportation project and the rights and obligations  
5 of the authority with respect to a transportation project;

6           (14) borrow money from or enter into a loan agreement  
7 or other arrangement with the state infrastructure bank; and

8           (15) do all things necessary or appropriate to carry  
9 out the powers and duties expressly granted or imposed by this  
10 chapter.

11           (b) Except as provided by this subsection, property that is  
12 a part of a transportation project of an authority is not subject to  
13 condemnation or the exercise of the power of eminent domain by any  
14 person, including a governmental entity. The department may  
15 condemn property that is a part of a transportation project of an  
16 authority if the property is needed for the construction,  
17 reconstruction, or expansion of a state highway or rail facility.

18           (c) An authority may, if requested by the commission,  
19 perform any function not specified by this chapter to promote or  
20 develop a transportation project in this state.

21           (d) An authority may sue and be sued and plead and be  
22 impleaded in its own name.

23           (e) An authority may rent, lease, franchise, license, or  
24 make portions of its properties available for use by others in  
25 furtherance of its powers under this chapter by increasing the  
26 feasibility or the revenue of a transportation project.

27           (f) An authority and a governmental entity may enter into a

1 contract, agreement, interlocal agreement, or other similar  
2 arrangement under which the authority may plan, design, construct,  
3 or operate a transportation project on behalf of the governmental  
4 entity. An authority may enter into a contract with the department  
5 under which the authority will plan, develop, operate, or maintain  
6 a transportation project on behalf of the department.

7 (g) Payments to be made to an authority under a contract  
8 described by Subsection (f) constitute operating expenses of the  
9 transportation project or system that is to be operated under the  
10 contract. The contract may extend for the number of years as agreed  
11 to by the parties.

12 (h) An authority shall adopt a written drug and alcohol  
13 policy restricting the use of controlled substances by officers and  
14 employees of the authority, prohibiting the consumption of  
15 alcoholic beverages by employees while on duty, and prohibiting  
16 employees from working for the authority while under the influence  
17 of a controlled substance or alcohol. An authority may adopt  
18 policies regarding the testing of employees suspected of being in  
19 violation of the authority's drug and alcohol policy. The policy  
20 shall provide that, unless required by court order or permitted by  
21 the person who is the subject of the testing, the authority shall  
22 keep the results of the test confidential.

23 (i) An authority shall adopt written procedures governing  
24 its procurement of goods and services that are consistent with  
25 general laws applicable to the authority.

26 (j) An authority may not apply for federal highway or rail  
27 funds without the approval of the department.



1       (k) The authority granted to an authority under Subsection  
2 (a)(10) does not include the authority to operate a public utility  
3 facility that provides retail public utility service.

4       (l) If an authority establishes an airport in Central Texas,  
5 the authority may not establish the airport at a location  
6 prohibited to the department by Section 21.069(c).

7       Sec. 370.034. ESTABLISHMENT OF TRANSPORTATION SYSTEMS. (a)  
8 If an authority determines that the traffic needs of the counties in  
9 which it operates and the traffic needs of the surrounding region  
10 could be most efficiently and economically met by jointly operating  
11 two or more transportation projects as one operational and  
12 financial enterprise, it may create a system made up of those  
13 transportation projects. An authority may create more than one  
14 system and may combine two or more systems into one system. An  
15 authority may finance, acquire, construct, and operate additional  
16 transportation projects as additions to or expansions of a system  
17 if the authority determines that the transportation project could  
18 most efficiently and economically be acquired or constructed if it  
19 were a part of the system and that the addition will benefit the  
20 system.

21       (b) The revenue of a system shall be accounted for  
22 separately and may not be commingled with the revenue of a  
23 transportation project that is not a part of the system or with the  
24 revenue of another system.

25       Sec. 370.035. CONVERSION AND TRANSFER OF STATE HIGHWAY  
26 SYSTEM PROJECTS. (a) The commission by order may convert a segment  
27 of the free state highway system to a turnpike project and transfer

1 that segment to an authority, or may transfer an existing turnpike  
2 project that is part of the state highway system, whether  
3 previously tolled or not, to an authority if:

4 (1) the commission determines that the proposed  
5 transfer is an integral part of the region's overall plan to improve  
6 mobility in the region;

7 (2) the commission determines that the public has a  
8 reasonable alternative route on nontoll roads; and

9 (3) the authority agrees to assume all liability and  
10 responsibility for the maintenance and operation of the turnpike  
11 project on its transfer.

12 (b) An authority shall reimburse the commission for the cost  
13 of a transferred turnpike project unless the commission determines  
14 that the transfer will result in a substantial net benefit to the  
15 state, the department, and the traveling public that equals or  
16 exceeds that cost.

17 (c) In computing the cost of the turnpike project, the  
18 commission shall:

19 (1) include the total amount spent by the department  
20 for the original construction of the turnpike project, including  
21 the costs associated with the preliminary engineering and design  
22 engineering for plans, specifications, and estimates, the  
23 acquisition of necessary rights-of-way, and actual construction of  
24 the turnpike project and all necessary appurtenant facilities; and

25 (2) consider the anticipated future costs of  
26 expanding, improving, maintaining, operating, or extending the  
27 turnpike project to be incurred by the authority and not by the

1 department if the turnpike project is transferred.

2 (d) The commission may, at the time a turnpike project is  
3 transferred, remove the turnpike project from the state highway  
4 system. After a transfer, the commission has no liability,  
5 responsibility, or duty for the maintenance or operation of the  
6 turnpike project.

7 (e) Before transferring a turnpike project that is part of  
8 the state highway system under this section, the commission shall  
9 conduct a public hearing at which interested persons shall be  
10 allowed to speak on the proposed transfer. Notice of the hearing  
11 must be published in the Texas Register, one or more newspapers of  
12 general circulation in the counties in which the turnpike project  
13 is located, and a newspaper, if any, published in the counties of  
14 the applicable authority.

15 (f) The commission shall adopt rules to implement this  
16 section. The rules shall include criteria and guidelines for the  
17 approval of a transfer of a turnpike project.

18 (g) An authority shall adopt rules providing criteria and  
19 guidelines for approval of the transfer of a turnpike project under  
20 this section.

21 (h) The commission may not transfer the Queen Isabella  
22 Causeway in Cameron County to an authority under this section.

23 Sec. 370.036. TRANSFER OF BONDED TURNPIKE PROJECT TO  
24 DEPARTMENT. (a) An authority may transfer to the department a  
25 turnpike project of the authority that has outstanding bonded  
26 indebtedness if the commission:

27 (1) agrees to the transfer; and

1           (2) agrees to assume the outstanding bonded  
2 indebtedness.

3           (b) The commission may assume the outstanding bonded  
4 indebtedness only if the assumption:

5           (1) is not prohibited under the terms of an existing  
6 trust agreement or indenture securing bonds or other obligations  
7 issued by the commission for another project;

8           (2) does not prevent the commission from complying  
9 with covenants of the commission under an existing trust agreement  
10 or indenture; and

11           (3) does not cause a rating agency maintaining a  
12 rating on outstanding obligations of the commission to lower the  
13 existing rating.

14           (c) If the commission agrees to the transfer under  
15 Subsection (a), the authority shall convey the turnpike project and  
16 any real property acquired to construct or operate the turnpike  
17 project to the department.

18           (d) At the time of a conveyance under this section, the  
19 commission shall designate the turnpike project as part of the  
20 state highway system. After the designation, the authority has no  
21 liability, responsibility, or duty to maintain or operate the  
22 transferred turnpike project.

23           Sec. 370.037. TRANSFER OF FERRY CONNECTING STATE HIGHWAYS.

24           (a) The commission by order may transfer a ferry operated under  
25 Section 342.001 to an authority if:

26           (1) the commission determines that the proposed  
27 transfer is an integral part of the region's overall plan to improve

1 mobility in the region; and

2 (2) the authority:

3 (A) agrees to the transfer; and

4 (B) agrees to assume all liability and  
5 responsibility for the maintenance and operation of the ferry on  
6 its transfer.

7 (b) An authority shall reimburse the commission for the cost  
8 of a transferred ferry unless the commission determines that the  
9 transfer will result in a substantial net benefit to the state, the  
10 department, and the traveling public that equals or exceeds that  
11 cost.

12 (c) In computing the cost of the ferry, the commission  
13 shall:

14 (1) include the total amount spent by the department  
15 for the original construction of the ferry, including the costs  
16 associated with the preliminary engineering and design engineering  
17 for plans, specifications, and estimates, the acquisition of  
18 necessary rights-of-way, and actual construction of the ferry and  
19 all necessary appurtenant facilities; and

20 (2) consider the anticipated future costs of  
21 expanding, improving, maintaining, or operating the ferry to be  
22 incurred by the authority and not by the department if the ferry is  
23 transferred.

24 (d) The commission shall, at the time the ferry is  
25 transferred, remove the ferry from the state highway system. After  
26 a transfer, the commission has no liability, responsibility, or  
27 duty for the maintenance or operation of the ferry.

1       (e) Before transferring a ferry that is a part of the state  
2 highway system under this section, the commission shall conduct a  
3 public hearing at which interested persons shall be allowed to  
4 speak on the proposed transfer. Notice of the hearing must be  
5 published in the Texas Register, one or more newspapers of general  
6 circulation in the counties in which the ferry is located, and a  
7 newspaper, if any, published in the counties of the applicable  
8 authority.

9       (f) The commission shall adopt rules to implement this  
10 section. The rules must include criteria and guidelines for the  
11 approval of a transfer of a ferry.

12       (g) An authority shall adopt rules establishing criteria  
13 and guidelines for approval of the transfer of a ferry under this  
14 section.

15       (h) An authority may temporarily charge a toll for use of a  
16 ferry transferred under this section to pay the costs necessary for  
17 an expansion of the ferry. An authority may permanently charge a  
18 toll for use of ferry facilities that are an expansion of the ferry  
19 transferred under this section.

20       Sec. 370.038. COMMISSION RULES. (a) The commission shall  
21 adopt rules that:

22               (1) govern the creation of an authority;

23               (2) govern the commission's approval of a project  
24 under Section 370.188 and other commission approvals required by  
25 this chapter;

26               (3) establish design and construction standards for a  
27 transportation project that will connect with a highway in the

1 state highway system or a department rail facility;

2 (4) establish minimum audit and reporting  
3 requirements and standards;

4 (5) establish minimum ethical standards for authority  
5 directors and employees; and

6 (6) govern the authority of an authority to contract  
7 with the United Mexican States or a state of the United Mexican  
8 States.

9 (b) The commission shall appoint a rules advisory committee  
10 to advise the department and the commission on the development of  
11 the commission's initial rules required by this section. The  
12 committee must include one or more members representing an existing  
13 authority, if applicable. Chapter 2110, Government Code, does not  
14 apply to the committee. This subsection expires on the date the  
15 commission adopts initial rules under this section.

16 [Sections 370.039-370.070 reserved for expansion]

17 SUBCHAPTER C. FEASIBILITY OF REGIONAL TRANSPORTATION PROJECTS

18 Sec. 370.071. EXPENDITURES FOR FEASIBILITY STUDIES. (a)

19 An authority may pay the expenses of studying the cost and  
20 feasibility and any other expenses relating to the preparation and  
21 issuance of bonds for a proposed transportation project by:

22 (1) using legally available revenue derived from an  
23 existing transportation project;

24 (2) borrowing money and issuing bonds or entering into  
25 a loan agreement payable out of legally available revenue  
26 anticipated to be derived from the operation of an existing  
27 transportation project; or

1           (3) pledging to the payment of the bonds or a loan  
2 agreement legally available revenue anticipated to be derived from  
3 the operation of transportation projects or revenue legally  
4 available to the authority from another source.

5           (b) Money spent under this section for a proposed  
6 transportation project must be reimbursed to the transportation  
7 project from which the money was spent from the proceeds of bonds  
8 issued for the acquisition and construction of the proposed  
9 transportation project.

10          (c) The use of any money of a transportation project to  
11 study the feasibility of another transportation project or used to  
12 repay any money used for that purpose does not constitute an  
13 operating expense of the transportation project producing the  
14 revenue and may be paid only from the surplus money of the  
15 transportation project as determined by the authority.

16          Sec. 370.072. FEASIBILITY STUDY FUND. (a) An authority may  
17 maintain a feasibility study fund. The fund is a revolving fund  
18 held in trust by a banking institution chosen by the authority and  
19 shall be kept separate from the money for a transportation project.

20          (b) An authority may transfer an amount from a surplus fund  
21 established for a transportation project to the authority's  
22 feasibility study fund if the remainder of the surplus fund after  
23 the transfer is not less than any minimum amount required by the  
24 bond proceedings to be retained for that transportation project.

25          (c) Money in the feasibility study fund may be used only to  
26 pay the expenses of studying the cost and feasibility and any other  
27 expenses relating to:



1           (1) the preparation and issuance of bonds for the  
2 acquisition and construction of a proposed transportation project;

3           (2) the financing of the improvement, extension, or  
4 expansion of an existing transportation project; and

5           (3) private participation, as authorized by law, in  
6 the financing of a proposed transportation project, the refinancing  
7 of an existing transportation project or system, or the  
8 improvement, extension, or expansion of a transportation project.

9           (d) Money spent under Subsection (c) for a proposed  
10 transportation project must be reimbursed from the proceeds of  
11 revenue bonds issued for, or other proceeds that may be used for,  
12 the acquisition, construction, improvement, extension, expansion,  
13 or operation of the transportation project.

14           (e) For a purpose described by Subsection (c), an authority  
15 may borrow money and issue promissory notes or other  
16 interest-bearing evidences of indebtedness payable out of its  
17 feasibility study fund, pledging money in the fund or to be placed  
18 in the fund.

19           Sec. 370.073. FEASIBILITY STUDY BY MUNICIPALITY, COUNTY,  
20 OTHER GOVERNMENTAL ENTITY, OR PRIVATE GROUP. (a) One or more  
21 municipalities, counties, or other governmental entities, a  
22 combination of municipalities, counties, and other governmental  
23 entities, or a private group or combination of individuals in this  
24 state may pay all or part of the expenses of studying the cost and  
25 feasibility and any other expenses relating to:

26           (1) the preparation and issuance of bonds for the  
27 acquisition or construction of a proposed transportation project by

1 an authority;

2 (2) the improvement, extension, or expansion of an  
3 existing transportation project of the authority; or

4 (3) the use of private participation under applicable  
5 law in connection with the acquisition, construction, improvement,  
6 expansion, extension, maintenance, repair, or operation of a  
7 transportation project by an authority.

8 (b) Money spent under Subsection (a) for a proposed  
9 transportation project is reimbursable without interest and with  
10 the consent of the authority to the person paying the expenses  
11 described in Subsection (a) out of the proceeds from revenue bonds  
12 issued for or other proceeds that may be used for the acquisition,  
13 construction, improvement, extension, expansion, maintenance,  
14 repair, or operation of the transportation project.

15 [Sections 370.074-370.110 reserved for expansion]

16 SUBCHAPTER D. TRANSPORTATION PROJECT FINANCING

17 Sec. 370.111. TRANSPORTATION REVENUE BONDS. (a) An  
18 authority, by bond resolution, may authorize the issuance of bonds  
19 to pay all or part of the cost of a transportation project, to  
20 refund any bonds previously issued for the transportation project,  
21 or to pay for all or part of the cost of a transportation project  
22 that will become a part of another system.

23 (b) As determined in the bond resolution, the bonds of each  
24 issue shall:

25 (1) be dated;

26 (2) bear interest at the rate or rates provided by the  
27 bond resolution and beginning on the dates provided by the bond

1 resolution and as authorized by law, or bear no interest;

2 (3) mature at the time or times provided by the bond  
3 resolution, not exceeding 40 years from their date or dates; and

4 (4) be made redeemable before maturity at the price or  
5 prices and under the terms provided by the bond resolution.

6 (c) An authority may sell the bonds at public or private  
7 sale in the manner and for the price it determines to be in the best  
8 interest of the authority.

9 (d) The proceeds of each bond issue shall be disbursed in  
10 the manner and under any restrictions provided in the bond  
11 resolution.

12 (e) Additional bonds may be issued in the same manner to pay  
13 the costs of a transportation project. Unless otherwise provided  
14 in the bond resolution, the additional bonds shall be on a parity,  
15 without preference or priority, with bonds previously issued and  
16 payable from the revenue of the transportation project. In  
17 addition, an authority may issue bonds for a transportation project  
18 secured by a lien on the revenue of the transportation project  
19 subordinate to the lien on the revenue securing other bonds issued  
20 for the transportation project.

21 (f) If the proceeds of a bond issue exceed the cost of the  
22 transportation project for which the bonds were issued, the surplus  
23 shall be segregated from the other money of the authority and used  
24 only for the purposes specified in the bond resolution.

25 (g) Bonds issued and delivered under this chapter and  
26 interest coupons on the bonds are a security under Chapter 8,  
27 Business & Commerce Code.

1       (h) Bonds issued under this chapter and income from the  
2 bonds, including any profit made on the sale or transfer of the  
3 bonds, are exempt from taxation in this state.

4       (i) Bonds issued under this chapter shall be considered  
5 authorized investments under Chapter 2256, Government Code, for  
6 this state, any governmental entity, and any other public entity  
7 proposing to invest in the bonds.

8       Sec. 370.112. INTERIM BONDS. (a) An authority may, before  
9 issuing definitive bonds, issue interim bonds, with or without  
10 coupons, exchangeable for definitive bonds.

11       (b) The interim bonds may be authorized and issued in  
12 accordance with this chapter, without regard to a requirement,  
13 restriction, or procedural provision in any other law.

14       (c) A bond resolution authorizing interim bonds may provide  
15 that the interim bonds recite that the bonds are issued under this  
16 chapter. The recital is conclusive evidence of the validity and the  
17 regularity of the bonds' issuance.

18       Sec. 370.113. PAYMENT OF BONDS; STATE AND COUNTY CREDIT.

19       (a) The principal of, interest on, and any redemption premium on  
20 bonds issued by an authority are payable solely from:

21               (1) the revenue of the transportation project for  
22 which the bonds are issued;

23               (2) payments made under an agreement with the  
24 commission, the department, or other governmental entity as  
25 provided by Subchapter G;

26               (3) money derived from any other source available to  
27 the authority, other than money derived from a transportation

1 project that is not part of the same system or money derived from a  
2 different system, except to the extent that the surplus revenue of a  
3 transportation project or system has been pledged for that purpose;  
4 and

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

7 (b) Bonds issued under this chapter do not constitute a debt  
8 of this state or of a governmental entity, or a pledge of the faith  
9 and credit of this state or of a governmental entity. Each bond  
10 must contain on its face a statement to the effect that the state,  
11 the authority, or any governmental entity is not obligated to pay  
12 the bond or the interest on the bond from a source other than the  
13 amount pledged to pay the bond and the interest on the bond, and  
14 neither the faith and credit and taxing power of this state or of  
15 any governmental entity are pledged to the payment of the principal  
16 of or interest on the bond. This subsection does not apply to a  
17 governmental entity that has entered into an agreement under  
18 Section 370.303.

19 (c) An authority may not incur a financial obligation that  
20 cannot be paid from revenue derived from owning or operating the  
21 authority's transportation projects or from other revenue provided  
22 by law.

23 Sec. 370.114. EFFECT OF LIEN. (a) A lien on or a pledge of  
24 revenue from a transportation project under this chapter or on a  
25 reserve, replacement, or other fund established in connection with  
26 a bond issued under this chapter:

27 (1) is enforceable at the time of payment for and

1 delivery of the bond;

2 (2) applies to each item on hand or subsequently  
3 received;

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

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

10 (b) A bond resolution is not required to be recorded except  
11 in the regular records of the authority.

12 Sec. 370.115. BOND INDENTURE. (a) Bonds issued by an  
13 authority under this chapter may be secured by a bond indenture  
14 between the authority and a corporate trustee that is a trust  
15 company or a bank that has the powers of a trust company.

16 (b) A bond indenture may pledge or assign the revenues to be  
17 received but may not convey or mortgage any part of a transportation  
18 project.

19 (c) A bond indenture may:

20 (1) set forth the rights and remedies of the  
21 bondholders and the trustee;

22 (2) restrict the individual right of action by  
23 bondholders as is customary in trust agreements or indentures of  
24 trust securing corporate bonds and debentures; and

25 (3) contain provisions the authority determines  
26 reasonable and proper for the security of the bondholders,  
27 including covenants:

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

3                   (i) the acquisition of property;  
4                   (ii) the construction, maintenance,  
5 operation, and repair of and insurance for a transportation  
6 project; and

7                   (iii) custody, safeguarding, and  
8 application of money;

9                   (B) prescribing events that constitute default;

10                   (C) prescribing terms on which any or all of the  
11 bonds become or may be declared due before maturity; and

12                   (D) relating to the rights, powers, liabilities,  
13 or duties that arise on the breach of a duty of the authority.

14                   (d) An expense incurred in carrying out a trust agreement  
15 may be treated as part of the cost of operating the transportation  
16 project.

17                   (e) In addition to all other rights by mandamus or other  
18 court proceeding, an owner or trustee of a bond issued under this  
19 chapter may enforce the owner's rights against an issuing  
20 authority, the authority's employees, the authority's board, or an  
21 agent or employee of the authority's board and is entitled to:

22                   (1) require the authority or the board to impose and  
23 collect tolls, fares, fees, charges, and other revenue sufficient  
24 to carry out any agreement contained in the bond proceedings; and

25                   (2) apply for and obtain the appointment of a receiver  
26 for the transportation project or system.

27                   Sec. 370.116. APPROVAL OF BONDS BY ATTORNEY GENERAL. (a)

1 An authority shall submit to the attorney general for examination  
2 the record of proceedings relating to bonds authorized under this  
3 chapter. The record shall include the bond proceedings and any  
4 contract securing or providing revenue for the payment of the  
5 bonds.

6 (b) If the attorney general determines that the bonds, the  
7 bond proceedings, and any supporting contract are authorized by  
8 law, the attorney general shall approve the bonds and deliver to the  
9 comptroller:

10 (1) a copy of the legal opinion of the attorney general  
11 stating the approval; and

12 (2) the record of proceedings relating to the  
13 authorization of the bonds.

14 (c) On receipt of the legal opinion of the attorney general  
15 and the record of proceedings relating to the authorization of the  
16 bonds, the comptroller shall register the record of proceedings.

17 (d) After approval by the attorney general, the bonds, the  
18 bond proceedings, and any supporting contract are valid,  
19 enforceable, and incontestable in any court or other forum for any  
20 reason and are binding obligations according to their terms for all  
21 purposes.

22 Sec. 370.117. FURNISHING OF INDEMNIFYING BONDS OR PLEDGES  
23 OF SECURITIES. (a) A bank or trust company incorporated under the  
24 laws of this state that acts as depository of the proceeds of bonds  
25 or of revenue may furnish indemnifying bonds or pledge securities  
26 that an authority requires.

27 (b) Bonds of an authority may secure the deposit of public



1 money of this state or a political subdivision of this state to the  
2 extent of the lesser of the face value of the bonds or their market  
3 value.

4 Sec. 370.118. APPLICABILITY OF OTHER LAW; CONFLICTS. All  
5 laws affecting the issuance of bonds by local governmental  
6 entities, including Chapters 1201, 1202, 1204, and 1371, Government  
7 Code, apply to bonds issued under this chapter. To the extent of a  
8 conflict between those laws and this chapter, the provisions of  
9 this chapter prevail.

10 [Sections 370.119-370.160 reserved for expansion]

11 SUBCHAPTER E. ACQUISITION, CONSTRUCTION, AND OPERATION OF  
12 TRANSPORTATION PROJECTS

13 Sec. 370.161. TRANSPORTATION PROJECTS EXTENDING INTO OTHER  
14 COUNTIES. (a) An authority may acquire, construct, operate,  
15 maintain, expand, or extend a transportation project only in:

16 (1) a county that is a part of the authority; or

17 (2) a county that is not a part of the authority if:

18 (A) the transportation project in that county is  
19 a continuation of a transportation project of the authority  
20 extending from a county adjacent to that county;

21 (B) the county is given an opportunity to become  
22 part of the authority on terms and conditions acceptable to the  
23 authority and that county; and

24 (C) the commissioners court of the county agrees  
25 to the proposed acquisition, construction, operation, maintenance,  
26 expansion, or extension of the transportation project in that  
27 county.

1       (b) An authority, under an agreement with another  
2 governmental entity, may construct, operate, maintain, expand, or  
3 extend a transportation project in a county that is not part of the  
4 authority and is not owned by the authority.

5       Sec. 370.162. POWERS AND PROCEDURES OF AUTHORITY IN  
6 ACQUIRING PROPERTY. (a) An authority may construct or improve a  
7 transportation project on real property, including a right-of-way  
8 acquired by the authority or provided to the authority for that  
9 purpose by the commission, a political subdivision of this state,  
10 or any other governmental entity.

11       (b) Except as provided by this chapter, an authority has the  
12 same powers and may use the same procedures as the commission in  
13 acquiring property.

14       Sec. 370.163. ACQUISITION OF PROPERTY. (a) An authority  
15 may acquire in the name of the authority public or private property  
16 it determines necessary or convenient for the construction,  
17 operation, maintenance, expansion, or extension of a  
18 transportation project or for otherwise carrying out this chapter  
19 only if the primary purpose of an acquisition is the furtherance of  
20 a transportation project.

21       (b) The property an authority may acquire under this  
22 subchapter includes all or any portion of, and rights in and to:

23               (1) public or private land, streets, alleys,  
24 rights-of-way, parks, playgrounds, and reservations;

25               (2) franchises;

26               (3) easements;

27               (4) licenses; and

1           (5) other interests in real and other property.

2           (c) An authority may acquire real property by any method,  
3 including purchase and condemnation. An authority may purchase  
4 public or private real property on the terms and at the price the  
5 authority and the property owner consider reasonable.

6           (d) Covenants, conditions, restrictions, or limitations  
7 affecting property acquired in any manner by the authority are not  
8 binding against the authority and do not impair the authority's  
9 ability to use the property for a purpose authorized by this  
10 chapter. The beneficiaries of the covenants, conditions,  
11 restrictions, or limitations may not enjoin the authority from  
12 using the property for a purpose authorized under this chapter, but  
13 this section does not affect the right of a person to seek  
14 compensation for damages to the person's property under Section 17,  
15 Article I, Texas Constitution.

16           (e) Subsection (d) does not affect the obligation of the  
17 authority under other state law to compensate this state for  
18 acquiring or using property owned by or on behalf of the state.

19           Sec. 370.164. RIGHT OF ENTRY. (a) To acquire property  
20 necessary or useful in connection with a transportation project, an  
21 authority may, on or after the fourth day after the date the  
22 authority gives notice to the owner of the real property, water, or  
23 premises, enter any real property, water, or premises to make a  
24 survey, geotechnical evaluation, sounding, or examination.

25           (b) To ensure the safety and convenience of the public, an  
26 authority shall, when entering any real property, water, or  
27 premises on which is located a public utility facility:

1           (1) comply with applicable industry standard safety  
2 codes and practices; and

3           (2) notwithstanding Subsection (a), give the owner or  
4 operator of the facility not less than 10 days' notice before  
5 entering the real property, water, or premises.

6           (c) An entry under Subsection (a) or (b) is not:

7                 (1) a trespass; or

8                 (2) an entry under a pending condemnation proceeding.

9           (d) The authority shall make reimbursements for any actual  
10 damages to real property, water, or premises that result from an  
11 activity described by Subsection (a) or (b).

12           Sec. 370.165. CONDEMNATION OF REAL PROPERTY. (a) Subject  
13 to Subsection (c), an authority may acquire public or private real  
14 property in the name of the authority by the exercise of the power  
15 of condemnation under the laws applicable to the exercise of that  
16 power on property for public use if:

17                 (1) the authority and the property owner cannot agree  
18 on a reasonable price for the property; or

19                 (2) the property owner is legally incapacitated,  
20 absent, unknown, or unable to convey title.

21           (b) An authority may condemn real property that the  
22 authority determines is:

23                 (1) necessary or appropriate to construct or to  
24 efficiently operate a transportation project;

25                 (2) necessary to restore public or private property  
26 damaged or destroyed, including property necessary or convenient to  
27 mitigate an environmental effect that directly results from the

1 construction, operation, or maintenance of a transportation  
2 project;

3 (3) necessary for access, approach, or interchange  
4 roads;

5 (4) necessary to provide proper drainage or ground  
6 slope for a transportation project; or

7 (5) otherwise necessary to implement this chapter.

8 (c) An authority may construct a supplemental facility only  
9 on real property the authority purchases.

10 (d) An authority's acquisition of any property of the  
11 commission under this section or any other section of this chapter  
12 or an authority's relocation, rerouting, disruption, or alteration  
13 of any facility of the commission is considered a conversion of a  
14 state highway under Section 370.035 and is subject to each  
15 requirement or approval of a conversion under that section.

16 (e) The authority granted under this section does not  
17 include the authority to condemn a bridge connecting this state to  
18 the United Mexican States that is owned by a county or municipality.

19 Sec. 370.166. DECLARATION OF TAKING. (a) An authority may  
20 file a declaration of taking with the clerk of the court:

21 (1) in which the authority files a condemnation  
22 petition under Chapter 21, Property Code; or

23 (2) to which the case is assigned.

24 (b) An authority may file the declaration of taking  
25 concurrently with or subsequent to the filing of the condemnation  
26 petition but may not file the declaration after the special  
27 commissioners have made an award in the condemnation proceeding.

1           (c) The declaration of taking must include:

2                   (1) a specific reference to the legislative authority  
3 for the condemnation;

4                   (2) a description and plot plan of the real property to  
5 be condemned, including the following information if applicable:

6                           (A) the municipality in which the property is  
7 located;

8                           (B) the street address of the property; and

9                           (C) the lot and block number of the property;

10                   (3) a statement of the property interest to be  
11 condemned;

12                   (4) the name and address of each property owner that  
13 the authority can obtain after reasonable investigation and a  
14 description of that owner's interest in the property; and

15                   (5) a statement that immediate possession of all or  
16 part of the property to be condemned is necessary for the timely  
17 construction of a transportation project.

18           (d) A deposit to the registry of the court of an amount equal  
19 to the fair market value, as determined by the authority, of the  
20 property to be condemned and any damages to the remainder must  
21 accompany the declaration of taking.

22           (e) Instead of the deposit under Subsection (d), at its  
23 option, the authority may, concurrently with the declaration of a  
24 taking, tender in favor of the owner of the property a bond or other  
25 security in an amount sufficient to secure the owner for the value  
26 of the property taken and damages to remaining property, if the  
27 authority obtains the court's approval.

1       (f) The date on which the declaration is filed is the date of  
2 taking for the purpose of assessing the value of the property taken  
3 and damages to any remaining property to which an owner is entitled.

4       (g) An owner may draw upon the deposit held by the court  
5 under Subsection (d) on the same terms and conditions as are  
6 applicable under state law to a property owner's withdrawal of a  
7 commissioners' award deposited under Section 21.021(a)(1),  
8 Property Code.

9       (h) A property owner who is a defendant in an eminent domain  
10 action filed by an authority under this chapter has 20 days after  
11 the date of service of process of both a condemnation petition and a  
12 notice of declaration of taking to give notice to the court in which  
13 the action is pending of the property owner's preference that the  
14 condemnation petition be placed on the court's docket in the same  
15 manner as other cases pending in the court. On receipt of timely  
16 notice from the property owner, the court in which the action is  
17 pending shall place the case on its docket in the same manner as  
18 other cases pending in the court.

19       Sec. 370.167. POSSESSION OF PROPERTY. (a) Immediately on  
20 the filing of a declaration of taking, an authority shall serve a  
21 copy of the declaration on each person possessing an interest in the  
22 condemned property by a method prescribed by Section 21.016(d),  
23 Property Code. The authority shall file evidence of the service  
24 with the clerk of the court. On filing of that evidence, the  
25 authority may take possession of the property on the same terms as  
26 if a commissioners hearing had been conducted, pending the  
27 litigation.

1       (b) If the condemned property is a homestead or a portion of  
2 a homestead as defined by Section 41.002, Property Code, an  
3 authority may not take possession before the 31st day after the date  
4 of service under Subsection (a).

5       (c) A property owner or tenant who refuses to vacate the  
6 property or yield possession is subject to forcible entry and  
7 detainer under Chapter 24, Property Code.

8       Sec. 370.168. SEVERANCE OF REAL PROPERTY. (a) If a  
9 transportation project of an authority severs a property owner's  
10 real property, the authority shall pay:

11           (1) the value of the property acquired; and

12           (2) the damages, if any, to the remainder of the  
13 owner's property caused by the severance, including damages caused  
14 by the inaccessibility of one tract from the other.

15       (b) At its option, an authority may negotiate for and  
16 purchase the severed real property or any part of the severed real  
17 property if the authority and the property owner agree on terms for  
18 the purchase. An authority may sell and dispose of severed real  
19 property that it determines is not necessary or useful to the  
20 authority. Severed property must be appraised before being offered  
21 for sale by the authority.

22       Sec. 370.169. ACQUISITION OF RIGHTS IN PUBLIC REAL  
23 PROPERTY. (a) An authority may use real property, including  
24 submerged land, streets, alleys, and easements, owned by this state  
25 or a local government that the authority considers necessary for  
26 the construction or operation of a transportation project.

27       (b) This state or a local government having charge of public



1 real property may consent to the use of the property for a  
2 transportation project.

3 (c) Except as provided by Section 370.035, this state or a  
4 local government may convey, grant, or lease to an authority real  
5 property, including highways and other real property devoted to  
6 public use and rights or easements in real property, that may be  
7 necessary or convenient to accomplish a purpose of the authority,  
8 including the construction or operation of a transportation  
9 project. A conveyance, grant, or lease under this section may be  
10 made without advertising, court order, or other action other than  
11 the normal action of this state or local government necessary for a  
12 conveyance, grant, or lease.

13 (d) This section does not deprive the School Land Board of  
14 the power to execute a lease for the development of oil, gas, and  
15 other minerals on state-owned real property adjoining a  
16 transportation project or in tidewater limits. A lease may provide  
17 for directional drilling from the adjoining property or tidewater  
18 area.

19 (e) This section does not affect the obligation of the  
20 authority under another law to compensate this state for acquiring  
21 or using property owned by or on behalf of this state. An  
22 authority's use of property owned by or on behalf of this state is  
23 subject to any covenants, conditions, restrictions, or limitations  
24 affecting that property.

25 Sec. 370.170. COMPENSATION FOR AND RESTORATION OF PUBLIC  
26 PROPERTY. (a) Except as provided by Section 370.035 or 370.165(c),  
27 an authority may not pay compensation for public real property,

1 parkways, streets, highways, alleys, or reservations it takes,  
2 other than:

3 (1) a park, playground, or designated environmental  
4 preserve;

5 (2) property owned by or on behalf of this state that  
6 under law requires compensation to this state for the use or  
7 acquisition of the property; or

8 (3) as provided by this chapter.

9 (b) Public property damaged in the exercise of a power  
10 granted by this chapter shall be restored or repaired and placed in  
11 its original condition as nearly as practicable.

12 (c) An authority has full easements and rights-of-way  
13 through, across, under, and over any property owned by the state or  
14 any local government that are necessary or convenient to construct,  
15 acquire, or efficiently operate a transportation project or system  
16 under this chapter. This subsection does not affect the obligation  
17 of the authority under other law to compensate this state for the  
18 use or acquisition of an easement or right-of-way on property owned  
19 by or on behalf of this state. An authority's use of property owned  
20 by or on behalf of this state is subject to any covenants,  
21 conditions, restrictions, or limitations affecting that property.

22 Sec. 370.171. PUBLIC UTILITY FACILITIES. (a) An authority  
23 may adopt rules for the installation, construction, operation,  
24 maintenance, repair, renewal, relocation, or removal of a public  
25 utility facility in, on, along, over, or under a transportation  
26 project.

27 (b) If an authority determines it is necessary that a public

1 utility facility located in, on, along, over, or under a  
2 transportation project be relocated in the transportation project,  
3 removed from the transportation project, or carried along or across  
4 the transportation project by grade separation, the owner or  
5 operator of the facility shall relocate or remove the facility in  
6 accordance with the requirements of the authority and in a manner  
7 that does not impede the design, financing, construction,  
8 operation, or maintenance of the transportation project.

9 (c) The authority, as a part of the cost of the  
10 transportation project or the cost of operating the transportation  
11 project, shall pay the cost of the relocation, removal, or grade  
12 separation of a public utility facility under Subsection (a),  
13 including the cost of:

14 (1) installation of the facility in a new location;

15 (2) damages incurred by the utility to its facilities  
16 and services;

17 (3) interests in real property and other rights  
18 acquired to accomplish the relocation or removal; and

19 (4) maintenance of grade separation structures.

20 (d) The authority may reduce the total costs to be paid by  
21 the authority under Subsection (c) by 10 percent for each 30-day  
22 period or portion of a 30-day period by which the relocation or  
23 removal exceeds the reasonable limit specified by the authority  
24 unless the failure of the owner or operator of the facility to  
25 timely relocate or remove the facility results directly from:

26 (1) a material action or inaction of the authority; or

27 (2) conditions beyond the reasonable control of the

1 owner or operator of the facility, including:

2 (A) an act of God; or

3 (B) a labor shortage or strike.

4 (e) If an owner or operator of a public utility facility  
5 does not timely relocate or remove the facility as required by  
6 Subsection (b), the authority may do so at the expense of the owner  
7 or operator. If the authority relocates or removes a facility under  
8 this subsection the authority shall relocate or remove the facility  
9 in a safe manner that:

10 (1) complies with applicable law; and

11 (2) attempts to minimize the disruption of utility  
12 service.

13 (f) The owner or operator of a public utility facility  
14 relocated or removed under Subsection (e) shall reimburse the  
15 authority for the expenses incurred for the relocation or removal  
16 of the facility, except that the owner or operator is not required  
17 to reimburse the authority if the failure of the owner or operator  
18 to timely relocate or remove the facility was the direct result of  
19 circumstances beyond the control of the owner or operator.

20 (g) Not later than 60 days before relocating or removing a  
21 public utility facility under Subsection (e), an authority shall  
22 provide to the utility:

23 (1) written notice of the department's determination  
24 that the facility must be removed;

25 (2) a final plan for relocation of the facility; and

26 (3) reasonable terms and conditions for the relocation  
27 or removal of the facility.

1       (h) Subchapter C, Chapter 181, Utilities Code, applies to  
2 the erection, construction, maintenance, and operation of a line or  
3 pole owned by an electric utility, as that term is defined by  
4 Section 181.041, Utilities Code, over, under, across, on, and along  
5 a transportation project or system constructed by an authority. An  
6 authority has:

7           (1) the powers and duties delegated to the  
8 commissioners court by that subchapter; and

9           (2) exclusive jurisdiction and control of utilities  
10 located in its rights-of-way.

11       (i) Subchapter B, Chapter 181, Utilities Code, applies to  
12 the laying and maintenance of facilities used for conducting gas by  
13 a gas utility, as that term is defined by Section 181.021, Utilities  
14 Code, through, under, along, across, and over a transportation  
15 project or system constructed by an authority except as otherwise  
16 provided by this section. An authority has:

17           (1) the power and duties delegated to the  
18 commissioners court by that subchapter; and

19           (2) exclusive jurisdiction and control of utilities  
20 located in its right-of-way.

21       (j) The laws of this state applicable to the use of public  
22 roads, streets, and waters by a telephone or telegraph corporation  
23 apply to the erection, construction, maintenance, location, and  
24 operation of a line, pole, or other fixture by a telephone or  
25 telegraph corporation over, under, across, on, and along a  
26 transportation project constructed by an authority under this  
27 chapter.

1       Sec. 370.172. LEASE, SALE, OR CONVEYANCE OF TRANSPORTATION  
2 PROJECT. An authority may lease, sell, or convey in any other  
3 manner a transportation project to a governmental entity with the  
4 approval of the governing body of the governmental entity to which  
5 the project is transferred.

6       Sec. 370.173. REVENUE. (a) An authority may:

7           (1) impose tolls, fees, fares, or other charges for  
8 the use of each of its transportation projects and the different  
9 parts or sections of each of its transportation projects; and

10           (2) contract with a person for the use of part of a  
11 transportation project, or lease or sell part of a transportation  
12 project, including the right-of-way adjoining the portion used to  
13 transport people and property, for any purpose, including placing  
14 on the adjoining right-of-way a gas station, garage, store, hotel,  
15 restaurant, parking facility, railroad track, billboard, livestock  
16 pasturage, telephone line or facility, telecommunication line or  
17 facility, data transmission line or facility, or electric line or  
18 facility, under terms set by the authority.

19           (b) Tolls, fees, fares, or other charges must be set at  
20 rates or amounts so that the aggregate of tolls, fees, fares, or  
21 other charges from an authority's transportation project, together  
22 with other revenue of the transportation project:

23           (1) provides revenue sufficient to pay:

24                   (A) the cost of maintaining, repairing, and  
25 operating the transportation project; and

26                   (B) the principal of and interest on any bonds  
27 issued for the transportation project as those bonds become due and

1 payable; and

2 (2) creates reserves for a purpose listed under  
3 Subdivision (1).

4 (c) Tolls, fees, fares, or other usage charges are not  
5 subject to supervision or regulation by any agency of this state or  
6 another governmental entity.

7 (d) Revenue derived from tolls, fees, and fares, and other  
8 revenue derived from a transportation project for which bonds are  
9 issued, other than any part necessary to pay the cost of  
10 maintenance, repair, and operation and to provide reserves for  
11 those costs as provided in the bond proceedings, shall be set aside  
12 at regular intervals as provided in the bond resolution or trust  
13 agreement in a sinking fund that is pledged to and charged with the  
14 payment of:

15 (1) interest on the bonds as it becomes due;

16 (2) principal of the bonds as it becomes due;

17 (3) necessary charges of paying agents for paying  
18 principal and interest;

19 (4) the redemption price or the purchase price of  
20 bonds retired by call or purchase as provided in the bond  
21 proceedings; and

22 (5) any amounts due under credit agreements.

23 (e) Use and disposition of money deposited to the credit of  
24 the sinking fund is subject to the bond proceedings.

25 (f) To the extent permitted under the applicable bond  
26 proceedings, revenue from one transportation project of an  
27 authority may be used to pay the cost of another transportation

1 project of the authority.

2 (g) An authority may not use revenue from a transportation  
3 project in a manner not authorized by this chapter. Except as  
4 provided by this chapter, revenue derived from a transportation  
5 project may not be applied for a purpose or to pay a cost other than  
6 a cost or purpose that is reasonably related to or anticipated to be  
7 for the benefit of a transportation project.

8 Sec. 370.174. AUTHORITY REVOLVING FUND. (a) An authority  
9 may maintain a revolving fund to be held in trust by a banking  
10 institution chosen by the authority separate from any other funds  
11 and administered by the authority's board.

12 (b) An authority may transfer into its revolving fund money  
13 from any permissible source, including:

14 (1) money from a transportation project if the  
15 transfer does not diminish the money available for the project to  
16 less than any amount required to be retained by the bond proceedings  
17 pertaining to the project;

18 (2) money received by the authority from any source  
19 and not otherwise committed, including money from the transfer of a  
20 transportation project or system or sale of authority assets;

21 (3) money received from the state highway fund; and

22 (4) contributions, loans, grants, or assistance from  
23 the United States, another state, another political subdivision of  
24 this state, a foreign governmental entity, including the United  
25 Mexican States or a state of the United Mexican States, a local  
26 government, any private enterprise, or any person.

27 (c) The authority may use money in the revolving fund to:



1           (1) finance the acquisition, construction,  
2 maintenance, or operation of a transportation project, including  
3 the extension, expansion, or improvement of a transportation  
4 project;

5           (2) provide matching money required in connection with  
6 any federal, state, local, or private aid, grant, or other funding,  
7 including aid or funding by or with public-private partnerships;

8           (3) provide credit enhancement either directly or  
9 indirectly for bonds issued to acquire, construct, extend, expand,  
10 or improve a transportation project;

11           (4) provide security for or payment of future or  
12 existing debt for the design, acquisition, construction,  
13 operation, maintenance, extension, expansion, or improvement of a  
14 transportation project or system;

15           (5) borrow money and issue promissory notes or other  
16 indebtedness payable out of the revolving fund for any purpose  
17 authorized by this chapter; and

18           (6) provide for any other reasonable purpose that  
19 assists in the financing of an authority as authorized by this  
20 chapter.

21           (d) Money spent or advanced from the revolving fund for a  
22 transportation project must be reimbursed from the money of that  
23 transportation project. There must be a reasonable expectation of  
24 repayment at the time the expenditure or advancement is authorized.

25           Sec. 370.175. USE OF SURPLUS REVENUE. (a) Each year, if an  
26 authority determines that it has surplus revenue from  
27 transportation projects, it shall reduce tolls, spend the surplus

1 revenue on other transportation projects in the counties of the  
2 authority in accordance with Subsection (b), or deposit the surplus  
3 revenue to the credit of the Texas Mobility Fund.

4 (b) Consistent with other law and commission rule, an  
5 authority may spend surplus revenue on other transportation  
6 projects by:

7 (1) constructing a transportation project located  
8 within the counties of the authority;

9 (2) assisting in the financing of a toll or toll-free  
10 transportation project of another governmental entity; or

11 (3) with the approval of the commission, constructing  
12 a toll or toll-free transportation project and, on completion of  
13 the project, transferring the project to another governmental  
14 entity if:

15 (A) the other governmental entity authorizes the  
16 authority to construct the project and agrees to assume all  
17 liability and responsibility for the maintenance and operation of  
18 the project on its transfer; and

19 (B) the project is constructed in compliance with  
20 all laws applicable to the governmental entity.

21 Sec. 370.176. EXEMPTION FROM TAXATION OR ASSESSMENT. (a)  
22 An authority is exempt from taxation of or assessments on:

23 (1) a transportation project or system;

24 (2) property the authority acquires or uses under this  
25 chapter for a transportation project or system; or

26 (3) income from property described by Subdivision (1)  
27 or (2).

1       (b) An authority is exempt from payment of development fees,  
2 utility connection fees, assessments, and service fees imposed or  
3 assessed by any governmental entity or any property owners' or  
4 homeowners' association.

5       Sec. 370.177. ACTIONS AFFECTING EXISTING ROADS. (a) An  
6 authority may impose a toll for transit over an existing free road,  
7 street, or public highway transferred to the authority under this  
8 chapter.

9       (b) An authority may construct a grade separation at an  
10 intersection of a transportation project with a railroad or highway  
11 and change the line or grade of a highway to accommodate the design  
12 of the grade separation. The action may not affect a segment of the  
13 state highway system without the department's consent. The  
14 authority shall pay the cost of a grade separation and any damage  
15 incurred in changing a line or grade of a railroad or highway as  
16 part of the cost of the transportation project.

17       (c) If feasible, an authority shall provide access to  
18 properties previously abutting a county road or other public road  
19 that is taken for a transportation project and shall pay abutting  
20 property owners the expenses or any resulting damages for a denial  
21 of access to the road.

22       (d) If an authority changes the location of a segment of a  
23 county road as part of its development of a transportation project,  
24 the authority shall, on the request of the county, reconstruct that  
25 segment of the road at a location that the authority determines, in  
26 its discretion, restores the utility of the road. The  
27 reconstruction and its associated costs are in furtherance of a

1 transportation project.

2 Sec. 370.178. FAILURE OR REFUSAL TO PAY TURNPIKE PROJECT  
3 TOLL; OFFENSE; ADMINISTRATIVE PENALTY. (a) The operator of a  
4 vehicle, other than an authorized emergency vehicle as defined by  
5 Section 541.201, that is driven or towed through a toll collection  
6 facility of a turnpike project shall pay the proper toll. The  
7 operator of a vehicle who drives or tows a vehicle through a toll  
8 collection facility and does not pay the proper toll commits an  
9 offense. An offense under this subsection is a misdemeanor  
10 punishable by a fine not to exceed \$250.

11 (b) In the event of nonpayment of the proper toll as  
12 required by Subsection (a), on issuance of a written notice of  
13 nonpayment, the registered owner of the nonpaying vehicle is liable  
14 for the payment of both the proper toll and an administrative fee.

15 (c) The authority may impose and collect the administrative  
16 fee to recover the cost of collecting the unpaid toll, not to exceed  
17 \$100. The authority shall send a written notice of nonpayment to  
18 the registered owner of the vehicle at that owner's address as shown  
19 in the vehicle registration records of the department by first  
20 class mail not later than the 30th day after the date of the alleged  
21 failure to pay and may require payment not sooner than the 30th day  
22 after the date the notice was mailed. The registered owner shall  
23 pay a separate toll and administrative fee for each event of  
24 nonpayment under Subsection (a).

25 (d) The registered owner of a vehicle for which the proper  
26 toll was not paid who is mailed a written notice of nonpayment under  
27 Subsection (c) and fails to pay the proper toll and administrative

1 fee within the time specified by the notice of nonpayment commits an  
2 offense. Each failure to pay a toll or administrative fee under  
3 this subsection is a separate offense.

4 (e) It is an exception to the application of Subsection (b)  
5 or (d) that the registered owner of the vehicle is a lessor of the  
6 vehicle and not later than the 30th day after the date the notice of  
7 nonpayment is mailed provides to the authority a copy of the rental,  
8 lease, or other contract document covering the vehicle on the date  
9 of the nonpayment under Subsection (a), with the name and address of  
10 the lessee clearly legible. If the lessor provides the required  
11 information within the period prescribed, the authority may send a  
12 notice of nonpayment to the lessee at the address shown on the  
13 contract document by first class mail before the 30th day after the  
14 date of receipt of the required information from the lessor. The  
15 lessee of the vehicle for which the proper toll was not paid who is  
16 mailed a written notice of nonpayment under this subsection and  
17 fails to pay the proper toll and administrative fee within the time  
18 specified by the notice of nonpayment commits an offense. The  
19 lessee shall pay a separate toll and administrative fee for each  
20 event of nonpayment. Each failure to pay a toll or administrative  
21 fee under this subsection is a separate offense.

22 (f) It is an exception to the application of Subsection (b)  
23 or (d) that the registered owner of the vehicle transferred  
24 ownership of the vehicle to another person before the event of  
25 nonpayment under Subsection (a) occurred, submitted written notice  
26 of the transfer to the department in accordance with Section  
27 520.023, and before the 30th day after the date the notice of

1 nonpayment is mailed, provides to the authority the name and  
2 address of the person to whom the vehicle was transferred. If the  
3 former owner of the vehicle provides the required information  
4 within the period prescribed, the authority may send a notice of  
5 nonpayment to the person to whom ownership of the vehicle was  
6 transferred at the address provided by the former owner by first  
7 class mail before the 30th day after the date of receipt of the  
8 required information from the former owner. The subsequent owner  
9 of the vehicle for which the proper toll was not paid who is mailed a  
10 written notice of nonpayment under this subsection and fails to pay  
11 the proper toll and administrative fee within the time specified by  
12 the notice of nonpayment commits an offense. The subsequent owner  
13 shall pay a separate toll and administrative fee for each event of  
14 nonpayment under Subsection (a). Each failure to pay a toll or  
15 administrative fee under this subsection is a separate offense.

16 (g) An offense under Subsection (d), (e), or (f) is a  
17 misdemeanor punishable by a fine not to exceed \$250.

18 (h) The court in which a person is convicted of an offense  
19 under this section shall also collect the proper toll and  
20 administrative fee and forward the toll and fee to the authority.

21 (i) In the prosecution of an offense under this section,  
22 proof that the vehicle passed through a toll collection facility  
23 without payment of the proper toll together with proof that the  
24 defendant was the registered owner or the driver of the vehicle when  
25 the failure to pay occurred, establishes the nonpayment of the  
26 registered owner. The proof may be by testimony of a peace officer  
27 or authority employee, video surveillance, or any other reasonable

1 evidence.

2 (j) It is a defense to prosecution under this section that  
3 the motor vehicle in question was stolen before the failure to pay  
4 the proper toll occurred and was not recovered by the time of the  
5 failure to pay, but only if the theft was reported to the  
6 appropriate law enforcement authority before the earlier of:

7 (1) the occurrence of the failure to pay; or

8 (2) eight hours after the discovery of the theft.

9 (k) In this section, "registered owner" means the owner of a  
10 vehicle as shown on the vehicle registration records of the  
11 department or the analogous department or agency of another state  
12 or country.

13 Sec. 370.179. USE AND RETURN OF TRANSPONDERS. (a) For  
14 purposes of this section, "transponder" means a device placed on or  
15 within an automobile that is capable of transmitting or receiving  
16 information used to assess or collect tolls. A transponder is  
17 insufficiently funded if there is no money in the account for which  
18 the transponder was issued.

19 (b) Any law enforcement or peace officer of an entity with  
20 which an authority has contracted under Section 370.182(c) may  
21 seize a stolen or insufficiently funded transponder and return it  
22 to the authority that issued the transponder. An insufficiently  
23 funded transponder may not be seized before the 30th day after the  
24 date that an authority has sent a notice of delinquency to the  
25 holder of the account.

26 (c) The following entities shall consider offering motor  
27 vehicle operators the option of using a transponder to pay tolls

1 without stopping, to mitigate congestion at toll locations, to  
2 enhance traffic flow, and to otherwise increase the efficiency of  
3 operations:

4 (1) the authority;

5 (2) an entity to which a project authorized by this  
6 chapter is transferred; or

7 (3) a third-party service provider under contract with  
8 an entity described by Subdivision (1) or (2).

9 Sec. 370.180. CONTROLLED ACCESS TO TURNPIKE PROJECTS. (a)

10 An authority by order may designate a turnpike project or a portion  
11 of a project as a controlled-access toll road.

12 (b) An authority by order may:

13 (1) prohibit the use of or access to or from a turnpike  
14 project by a motor vehicle, bicycle, another classification or type  
15 of vehicle, or a pedestrian;

16 (2) deny access to or from:

17 (A) a turnpike project;

18 (B) real property adjacent to a turnpike project;

19 or

20 (C) a street, road, alley, highway, or other  
21 public or private way intersecting a turnpike project;

22 (3) designate locations on a turnpike project at which  
23 access to or from the toll road is permitted;

24 (4) control, restrict, and determine the type and  
25 extent of access permitted at a designated location of access to a  
26 turnpike project; or

27 (5) erect appropriate protective devices to preserve



1 the utility, integrity, and use of a turnpike project.

2 (c) Denial of access to or from a segment of the state  
3 highway system is subject to the approval of the commission.

4 Sec. 370.181. PROMOTION OF TRANSPORTATION PROJECT. An  
5 authority may promote the use of a transportation project,  
6 including a project that it operates on behalf of another entity, by  
7 appropriate means, including advertising or marketing as the  
8 authority determines appropriate.

9 Sec. 370.182. OPERATION OF TRANSPORTATION PROJECT. (a) An  
10 authority shall operate a transportation project with employees of  
11 the authority or by using services contracted under Subsection (b)  
12 or (c).

13 (b) An authority may enter into an agreement with one or  
14 more persons to provide, on terms and conditions approved by the  
15 authority, personnel and services to design, construct, operate,  
16 maintain, expand, enlarge, or extend the transportation project of  
17 the authority.

18 (c) An authority may contract with any state or local  
19 government for the services of peace officers of that agency.

20 Sec. 370.183. AUDIT. An authority shall have a certified  
21 public accountant audit the authority's books and accounts at least  
22 annually. The cost of the audit may be treated as part of the cost  
23 of construction or operation of a transportation project.

24 Sec. 370.184. DISADVANTAGED BUSINESSES. (a) Consistent  
25 with general law, an authority shall:

26 (1) set goals for the award of contracts to  
27 disadvantaged businesses and attempt to meet the goals;

1           (2) attempt to identify disadvantaged businesses that  
2 provide or have the potential to provide supplies, materials,  
3 equipment, or services to the authority; and

4           (3) give disadvantaged businesses full access to the  
5 authority's contract bidding process, inform the businesses about  
6 the process, offer the businesses assistance concerning the  
7 process, and identify barriers to the businesses' participation in  
8 the process.

9           (b) This section does not exempt an authority from  
10 competitive bidding requirements provided by other law.

11           Sec. 370.185. PROCUREMENT. An authority shall adopt rules  
12 governing the award of contracts for goods and services.  
13 Notwithstanding any other provision of state law, an authority may  
14 procure goods and services, including materials, engineering,  
15 design, construction, operations, maintenance, and other goods and  
16 services, through any procedure authorized by this chapter.  
17 Procurement of professional services is governed by Chapter 2254,  
18 Government Code.

19           Sec. 370.186. COMPETITIVE BIDDING. A contract made by an  
20 authority may be let by a competitive bidding procedure in which the  
21 contract is awarded to the lowest responsible bidder that complies  
22 with the authority's criteria.

23           Sec. 370.187. RESTRICTION ON LOCATION OF TURNPIKE PROJECTS.  
24 An authority may not construct, maintain, or operate a turnpike  
25 project in a county that, on November 6, 2001:

26           (1) was part of a regional tollway authority under  
27 Chapter 366; or

1           (2) operated a turnpike project under Chapter 284.

2           Sec. 370.188. PROJECT APPROVAL. (a) An authority may not  
3 begin construction of a transportation project that will connect to  
4 the state highway system or to a department rail facility without  
5 the approval of the commission.

6           (b) The commission by rule shall establish procedures and  
7 criteria for an approval under this section. The rules must require  
8 the commission to consider a request for project approval not later  
9 than the 60th day after the date the department receives all  
10 information reasonably necessary to review the request.

11           Sec. 370.189. ENVIRONMENTAL REVIEW OF AUTHORITY PROJECTS.

12           (a) An authority shall adopt rules for environmental review of a  
13 transportation project that is not subject to review under the  
14 National Environmental Policy Act (42 U.S.C. Section 4321 et seq.),  
15 as amended. The rules must:

16                   (1) specify the types of projects for which a public  
17 hearing is required;

18                   (2) establish procedures for public comment on the  
19 environmental review, including a procedure for requesting a public  
20 hearing on an environmental review for which a public hearing is not  
21 required; and

22                   (3) require:

23                           (A) an evaluation of any direct or indirect  
24 environmental effect of the project;

25                           (B) an analysis of project alternatives; and

26                           (C) a written report that briefly explains the  
27 authority's review of the project and that specifies any mitigation

1 measures on environmental harm on which the project is conditioned.

2 (b) An environmental review of a project must be conducted  
3 before the authority may approve the location or alignment of the  
4 project.

5 (c) The authority shall consider the results of the  
6 environmental review in executing its duties.

7 (d) The authority shall coordinate with the Texas  
8 Commission on Environmental Quality and the Parks and Wildlife  
9 Department in the preparation of an environmental review.

10 [Sections 370.190-370.250 reserved for expansion]

11 SUBCHAPTER F. GOVERNANCE

12 Sec. 370.251. BOARD OF DIRECTORS. (a) The governing body  
13 of an authority is a board of directors consisting of  
14 representatives of each county in which a transportation project of  
15 the authority is located or is proposed to be located. The  
16 commissioners court of each county that initially forms the  
17 authority shall appoint at least two directors to the board.  
18 Additional directors may be appointed to the board at the time of  
19 initial formation by agreement of the counties creating the  
20 authority to ensure fair representation of political subdivisions  
21 in the counties of the authority that will be affected by a  
22 transportation project of the authority, provided that the number  
23 of directors must be an odd number. The commissioners court of a  
24 county that is subsequently added to the authority shall appoint  
25 one director to the board. The governor shall appoint one director  
26 to the board who shall serve as the presiding officer of the board  
27 and shall appoint an additional director to the board if an

1 appointment is necessary to maintain an odd number of directors on  
2 the board.

3 (b) Unless the commissioners courts of the counties of the  
4 authority unanimously agree otherwise, the commissioners court of  
5 each county of an authority that contains an operating  
6 transportation project of the authority shall appoint one  
7 additional director.

8 (c) Directors serve staggered six-year terms, with the  
9 terms of no more than one-third of the directors expiring on  
10 February 1 of each odd-numbered year.

11 (d) One director appointed to the initial board of an  
12 authority by the commissioners court of a county shall be  
13 designated by the court to serve a term of two years and one  
14 director designated to serve a term of four years. If one or more  
15 directors are subsequently appointed to the board, the directors  
16 other than the subsequent appointees shall determine the length of  
17 the appointees' terms, to comply with Subsection (c).

18 (e) If a vacancy occurs on the board, the appointing  
19 authority shall promptly appoint a successor to serve for the  
20 unexpired portion of the term.

21 (f) All appointments to the board shall be made without  
22 regard to race, color, disability, sex, religion, age, or national  
23 origin.

24 (g) The following individuals are ineligible to serve as a  
25 director:

26 (1) an elected official;

27 (2) a person who is not a resident of a county within

1 the geographic area of the authority;

2 (3) a department employee;

3 (4) an employee of a governmental entity any part of  
4 which is located within the geographic boundaries of the authority;  
5 and

6 (5) a person owning an interest in real property that  
7 will be acquired for an authority project, if it is known at the  
8 time of the person's proposed appointment that the property will be  
9 acquired for the authority project.

10 (h) Each director has equal status and may vote.

11 (i) The vote of a majority attending a board meeting is  
12 necessary for any action taken by the board. If a vacancy exists on  
13 a board, the majority of directors serving on the board is a quorum.

14 (j) The commission may refuse to authorize the creation of  
15 an authority if the commission determines that the proposed board  
16 will not fairly represent political subdivisions in the counties of  
17 the authority that will be affected by the creation of the  
18 authority.

19 Sec. 370.2515. BOARD COMPOSITION PROPOSAL BY TURNPIKE  
20 AUTHORITY. If a county in which a turnpike authority under Chapter  
21 366 operates or a county owning or operating a toll project under  
22 Chapter 284 is part of an authority, the turnpike authority or the  
23 county may submit to the commission a proposed structure for the  
24 board and a method of appointment to the board:

25 (1) at the creation of the authority if the county is a  
26 county that initially forms an authority;

27 (2) when a new county is added to the authority; and

1           (3) when the county is initially added to the  
2 authority.

3           Sec. 370.252. PROHIBITED CONDUCT FOR DIRECTORS AND  
4 EMPLOYEES. (a) A director or employee of an authority may not:

5           (1) accept or solicit any gift, favor, or service  
6 that:

7                   (A) might reasonably influence the director or  
8 employee in the discharge of an official duty; or

9                   (B) the director or employee knows or should know  
10 is being offered with the intent to influence the director's or  
11 employee's official conduct;

12           (2) accept other employment or engage in a business or  
13 professional activity that the director or employee might  
14 reasonably expect would require or induce the director or employee  
15 to disclose confidential information acquired by reason of the  
16 official position;

17           (3) accept other employment or compensation that could  
18 reasonably be expected to impair the director's or employee's  
19 independence of judgment in the performance of the director's or  
20 employee's official duties;

21           (4) make personal investments that could reasonably be  
22 expected to create a substantial conflict between the director's or  
23 employee's private interest and the interest of the authority;

24           (5) intentionally or knowingly solicit, accept, or  
25 agree to accept any benefit for having exercised the director's or  
26 employee's official powers or performed the director's or  
27 employee's official duties in favor of another; or

1           (6) have a personal interest in an agreement executed  
2 by the authority.

3           (b) A person is not eligible to serve as a director or chief  
4 administrative officer of an authority if the person or the  
5 person's spouse:

6           (1) is employed by or participates in the management  
7 of a business entity or other organization, other than a  
8 governmental entity, that is regulated by or receives funds from  
9 the authority or the department;

10           (2) directly or indirectly owns or controls more than  
11 a 10 percent interest in a business or other organization that is  
12 regulated by or receives funds from the authority or the  
13 department;

14           (3) uses or receives a substantial amount of tangible  
15 goods, services, or funds from the authority or the department; or

16           (4) is required to register as a lobbyist under  
17 Chapter 305, Government Code, because of the person's activities  
18 for compensation on behalf of a profession related to the operation  
19 of the authority or the department.

20           (c) A person is not eligible to serve as a director or chief  
21 administrative officer of an authority if the person is an officer,  
22 employee, or paid consultant of a Texas trade association in the  
23 field of road construction or maintenance, public transportation,  
24 or aviation, or if the person's spouse is an officer, manager, or  
25 paid consultant of a Texas trade association in the field of road  
26 construction or maintenance, public transportation, or aviation.

27           (d) In this section, "Texas trade association" means a



1 nonprofit, cooperative, and voluntarily joined association of  
2 business or professional competitors in this state designed to  
3 assist its members and its industry or profession in dealing with  
4 mutual business or professional problems and in promoting their  
5 common interests.

6 (e) A person is not ineligible to serve as a director or  
7 chief administrative officer of an authority if the person has  
8 received funds from the department for acquisition of highway  
9 right-of-way unless the acquisition was for a project of the  
10 authority.

11 Sec. 370.253. SURETY BONDS. (a) Before beginning a term,  
12 each director shall execute a surety bond in the amount of \$25,000,  
13 and the secretary and treasurer shall execute a surety bond in the  
14 amount of \$50,000.

15 (b) Each surety bond must be:

16 (1) conditioned on the faithful performance of the  
17 duties of office;

18 (2) executed by a surety company authorized to  
19 transact business in this state; and

20 (3) filed with the secretary of state's office.

21 (c) The authority shall pay the expense of the bonds.

22 Sec. 370.254. REMOVAL OF DIRECTOR. (a) It is a ground for  
23 removal of a director from the board if the director:

24 (1) did not have at the time of appointment the  
25 qualifications required by Section 370.251;

26 (2) at the time of appointment or at any time during  
27 the director's term, is ineligible under Section 370.251 or 370.252

1 to serve as a director;

2 (3) cannot discharge the director's duties for a  
3 substantial part of the term for which the director is appointed  
4 because of illness or disability; or

5 (4) is absent from more than half of the regularly  
6 scheduled board meetings that the director is eligible to attend  
7 during a calendar year.

8 (b) The validity of an action of the board is not affected by  
9 the fact that it is taken when a ground for removal of a director  
10 exists.

11 (c) If the chief administrative officer of the authority has  
12 knowledge that a potential ground for removal exists, that person  
13 shall notify the presiding officer of the board of the ground. The  
14 presiding officer shall then notify the person that appointed the  
15 director that a potential ground for removal exists.

16 Sec. 370.255. COMPENSATION OF DIRECTOR. Each director is  
17 entitled to reimbursement for the director's actual expenses  
18 necessarily incurred in the performance of the director's duties.  
19 A director is not entitled to any additional compensation for the  
20 director's services.

21 Sec. 370.256. EVIDENCE OF AUTHORITY ACTIONS. Actions of an  
22 authority are the actions of its board and may be evidenced in any  
23 legal manner, including a board resolution.

24 Sec. 370.257. PUBLIC ACCESS. An authority shall:

25 (1) make and implement policies that provide the  
26 public with a reasonable opportunity to appear before the board to  
27 speak on any issue under the jurisdiction of the authority; and

1           (2) prepare and maintain a written plan that describes  
2 how an individual who does not speak English or who has a physical,  
3 mental, or developmental disability may be provided reasonable  
4 access to the authority's programs.

5           Sec. 370.258. INDEMNIFICATION. (a) An authority may  
6 indemnify one or more of its directors or officers for necessary  
7 expenses and costs, including attorney's fees, incurred by the  
8 directors or officers in connection with any claim asserted against  
9 the directors or officers in their respective capacities as  
10 directors or officers.

11           (b) If an authority does not fully indemnify a director or  
12 officer as provided by Subsection (a), the court in a proceeding in  
13 which any claim against the director or officer is asserted or any  
14 court with jurisdiction of an action instituted by the director or  
15 officer on a claim for indemnity may assess indemnity against the  
16 authority, its receiver, or trustee only if the court finds that, in  
17 connection with the claim, the director or officer is not guilty of  
18 negligence or misconduct.

19           (c) A court may not assess indemnity under Subsection (b)  
20 for an amount paid by the director or officer to the authority.

21           (d) This section applies to a current or former director or  
22 officer of the authority.

23           Sec. 370.259. PURCHASE OF LIABILITY INSURANCE. (a) An  
24 authority shall insure its officers and employees from liability  
25 arising from the use, operation, or maintenance of equipment that  
26 is used or may be used in connection with the laying out,  
27 construction, or maintenance of the authority's transportation

1 projects.

2 (b) Insurance coverage under this section must be provided  
3 by the purchase of a policy of liability insurance from a reliable  
4 insurance company authorized to do business in this state. The form  
5 of the policy must be approved by the commissioner of insurance.

6 (c) This section is not a waiver of immunity of the  
7 authority or the counties in an authority from liability for the  
8 torts or negligence of an officer or employee of an authority.

9 (d) In this section, "equipment" includes an automobile,  
10 motor truck, trailer, aircraft, motor grader, roller, tractor,  
11 tractor power mower, locomotive, rail car, and other power  
12 equipment.

13 Sec. 370.260. CERTAIN CONTRACTS AND SALES PROHIBITED. (a)  
14 A director, agent, or employee of an authority may not:

15 (1) contract with the authority; or

16 (2) be directly or indirectly interested in:

17 (A) a contract with the authority; or

18 (B) the sale of property to the authority.

19 (b) A person who violates Subsection (a) is liable for a  
20 civil penalty to the authority in an amount not to exceed \$1,000.

21 Sec. 370.261. STRATEGIC PLANS AND ANNUAL REPORTS. (a) An  
22 authority shall make a strategic plan for its operations. A  
23 majority of the commissioners courts of the counties of the  
24 authority shall by concurrent resolution determine the types of  
25 information required to be included in the strategic plan. Each  
26 even-numbered year, an authority shall issue a plan covering the  
27 succeeding five fiscal years, beginning with the next odd-numbered

1 fiscal year.

2 (b) Not later than March 31 of each year, an authority shall  
3 file with the commissioners court of each county of the authority a  
4 written report on the authority's activities describing all  
5 transportation revenue bond issuances anticipated for the coming  
6 year, the financial condition of the authority, all project  
7 schedules, and the status of the authority's performance under the  
8 most recent strategic plan. At the invitation of a commissioners  
9 court of a county of the authority, representatives of the board and  
10 the administrative head of an authority shall appear before the  
11 commissioners court to present the report and receive questions and  
12 comments.

13 (c) The authority shall give notice to the commissioners  
14 court of each county of the authority not later than the 90th day  
15 before the date of issuance of revenue bonds.

16 Sec. 370.262. MEETINGS BY TELEPHONE CONFERENCE CALL. (a)  
17 Chapter 551, Government Code, does not prohibit any open or closed  
18 meeting of the board, a committee of the board, or the staff, or any  
19 combination of the board or staff, from being held by telephone  
20 conference call.

21 (b) A telephone conference call meeting is subject to the  
22 notice requirements applicable to other meetings.

23 (c) Notice of a telephone conference call meeting that by  
24 law must be open to the public must specify the location of the  
25 meeting. The location must be a conference room of the authority or  
26 other facility in a county of the authority that is accessible to  
27 the public.

1       (d) Each part of the telephone conference call meeting that  
2 by law must be open to the public shall be audible to the public at  
3 the location specified in the notice and shall be tape-recorded or  
4 documented by written minutes. On conclusion of the meeting, the  
5 tape recording or the written minutes of the meeting shall be made  
6 available to the public.

7       [Sections 370.263-370.300 reserved for expansion]

8       SUBCHAPTER G. PARTICIPATION IN FINANCING, CONSTRUCTION, AND

9               OPERATION OF TRANSPORTATION PROJECTS

10       Sec. 370.301. DEPARTMENT CONTRIBUTIONS TO TURNPIKE  
11 PROJECTS. (a) The department may agree with an authority to  
12 provide for or contribute to the payment of costs of financial or  
13 engineering and traffic feasibility studies and the design,  
14 financing, acquisition, construction, operation, or maintenance of  
15 a turnpike project or system on terms agreed on by the commission or  
16 department, as applicable, and the authority. The agreement may  
17 not be inconsistent with the rights of the bondholders or persons  
18 operating the turnpike project under a lease or other contract.

19       (b) The department may use its engineering and other  
20 personnel, including consulting engineers and traffic engineers,  
21 to conduct feasibility studies under Subsection (a).

22       (c) An obligation or expense incurred by the commission or  
23 department under this section is a part of the cost of the turnpike  
24 project for which the obligation or expense was incurred. The  
25 commission or department may require money contributed by the  
26 commission or department under this section to be repaid from tolls  
27 or other revenue of the turnpike project on which the money was

1 spent. Money repaid as required by the commission or department  
2 shall be deposited to the credit of the fund from which the  
3 contribution was made. Money deposited as required by this section  
4 is exempt from the application of Section 403.095, Government Code.

5 (d) The commission or department may use federal money for  
6 any purpose described by this chapter.

7 (e) A turnpike project developed by an authority may not be  
8 part of the state highway system unless otherwise agreed to by the  
9 authority and the department.

10 (f) The commission may grant or loan department money to an  
11 authority for the acquisition of land for or the construction,  
12 maintenance, or operation of a turnpike project. The commission  
13 may require the authority to repay money provided under this  
14 section from toll revenue or other sources on terms established by  
15 the commission.

16 (g) Money repaid as required by the commission shall be  
17 deposited to the credit of the fund from which the money was  
18 provided. Money deposited as required by this section is exempt  
19 from the application of Section 403.095, Government Code.

20 Sec. 370.302. AGREEMENTS TO CONSTRUCT, MAINTAIN, AND  
21 OPERATE TRANSPORTATION PROJECTS. (a) An authority may enter into  
22 an agreement with a public or private entity, including a toll road  
23 corporation, the United States, a state of the United States, the  
24 United Mexican States, a state of the United Mexican States,  
25 another governmental entity, or a political subdivision, to permit  
26 the entity, independently or jointly with the authority, to study  
27 the feasibility of a transportation project or to acquire, design,

1 finance, construct, maintain, repair, operate, extend, or expand a  
2 transportation project. An authority and a private entity jointly  
3 may enter into an agreement with another governmental entity to  
4 study the feasibility of a transportation project or to acquire,  
5 design, finance, construct, maintain, repair, operate, extend, or  
6 expand a transportation project.

7 (b) An authority has broad discretion to negotiate  
8 provisions in a development agreement with a private entity. The  
9 provisions may include provisions relating to:

10 (1) the design, financing, construction, maintenance,  
11 and operation of a transportation project in accordance with  
12 standards adopted by the authority; and

13 (2) professional and consulting services to be  
14 rendered under standards adopted by the authority in connection  
15 with a transportation project.

16 (c) An authority may not incur a financial obligation on  
17 behalf of, or guarantee the obligations of, a private entity that  
18 constructs, maintains, or operates a transportation project.

19 (d) An authority or a county in an authority is not liable  
20 for any financial or other obligation of a transportation project  
21 solely because a private entity constructs, finances, or operates  
22 any part of a transportation project.

23 (e) An authority may authorize the investment of public and  
24 private money, including debt and equity participation, to finance  
25 a function described by this section.

26 Sec. 370.303. AGREEMENTS BETWEEN AUTHORITY AND LOCAL  
27 GOVERNMENTAL ENTITIES. (a) A governmental entity other than a



1 nonprofit corporation may, consistent with the Texas Constitution,  
2 issue bonds, notes, or other obligations or enter into and make  
3 payments under agreements with an authority to acquire, construct,  
4 maintain, or operate a transportation project, whether inside or  
5 outside the geographic boundaries of the governmental entity,  
6 including agreements to pay the principal of, and interest on,  
7 bonds, notes, or other obligations issued by the authority and make  
8 payments under any related credit agreements. The entity may  
9 impose and collect taxes to pay the interest on the bonds and to  
10 provide a sinking fund for the redemption of the bonds.

11 (b) In addition to the powers provided by Subsection (a), a  
12 governmental entity may, to the extent constitutionally permitted,  
13 agree with an authority to issue bonds, notes, or other  
14 obligations, create a taxing district or an entity to promote  
15 economic development, fund public improvements to promote economic  
16 development, or enter into and make payments under an agreement to  
17 acquire, construct, maintain, or operate any portion of a  
18 transportation project of the authority. An agreement may include  
19 a means for a local governmental entity to provide funds for a  
20 transportation project that benefits the governmental entity to be  
21 developed by the authority.

22 (c) To make payments under an agreement under Subsection  
23 (b), to pay the interest on bonds issued under Subsection (b), or to  
24 provide a sinking fund for the bonds or the agreement, a  
25 governmental entity may:

26 (1) pledge revenue from any available source,  
27 including annual appropriations;

1           (2) impose and collect taxes; or

2           (3) pledge revenue and impose and collect taxes.

3           (d) The term of an agreement under this section may not  
4 exceed 40 years.

5           (e) An election required to authorize action under this  
6 subchapter must be held in conformity with Chapter 1251, Government  
7 Code, or other law applicable to the governmental entity.

8           (f) The governing body of any governmental entity issuing  
9 bonds, notes, or other obligations or entering into agreements  
10 under this section may exercise the authority granted to the  
11 governing body of an issuer with regard to issuance of obligations  
12 under Chapter 1371, Government Code, except that the prohibition in  
13 that chapter on the repayment of an obligation with ad valorem taxes  
14 does not apply to an issuer exercising the authority granted by this  
15 section.

16           Sec. 370.304. ADDITIONAL AGREEMENTS OF AUTHORITY. An  
17 authority may enter into any agreement necessary or convenient to  
18 achieve the purposes of this subchapter.

19           Sec. 370.305. EXCLUSIVE DEVELOPMENT AGREEMENTS. An  
20 authority may use an exclusive development agreement to construct,  
21 maintain, repair, operate, extend, or expand a transportation  
22 project by invested private funding or by public funding, private  
23 funding, or any combination. An agreement under this section is not  
24 subject to a requirement or restriction of Section 222.103(i).

25           Sec. 370.306. PROCESS FOR ENTERING INTO EXCLUSIVE  
26 DEVELOPMENT AGREEMENTS. (a) If an authority enters into an  
27 exclusive development agreement, the authority shall use a

1 competitive procurement process that provides the best value for  
2 the authority. The authority may accept unsolicited proposals for  
3 a proposed transportation project or solicit proposals in  
4 accordance with this section.

5 (b) The authority shall establish rules and procedures for  
6 accepting unsolicited proposals that require the private entity to  
7 include in the proposal:

8 (1) information regarding the proposed project  
9 location, scope, and limits;

10 (2) information regarding the private entity's  
11 qualifications, experience, technical competence, and capability  
12 to develop the project; and

13 (3) a proposed financial plan for the proposed project  
14 that includes, at a minimum:

15 (A) projected project costs; and

16 (B) proposed sources of funds.

17 (c) The authority shall publish a request for competing  
18 proposals and qualifications in the Texas Register that includes  
19 the criteria used to evaluate the proposals, the relative weight  
20 given to the criteria, and a deadline by which proposals must be  
21 received if:

22 (1) the authority decides to issue a request for  
23 qualifications for a proposed project; or

24 (2) the authority authorizes the further evaluation of  
25 an unsolicited proposal.

26 (d) A proposal submitted in response to a request published  
27 under Subsection (c) must contain, at a minimum, the information

1 required by Subsections (b)(2) and (3).

2 (e) An authority may interview a private entity submitting  
3 an unsolicited proposal or responding to a request under Subsection  
4 (c). The authority shall evaluate each proposal based on the  
5 criteria described in the notice. The authority must qualify at  
6 least two private entities to submit detailed proposals for a  
7 project under Subsection (f) unless the authority does not receive  
8 more than one proposal or one response to a request under Subsection  
9 (c).

10 (f) An authority shall issue a request for detailed  
11 proposals from all private entities qualified under Subsection (e)  
12 if the authority proceeds with the further evaluation of a proposed  
13 project. A request under this subsection may require additional  
14 information relating to:

15 (1) the private entity's qualifications and  
16 demonstrated technical competence;

17 (2) the feasibility of developing the project as  
18 proposed;

19 (3) detailed engineering or architectural designs;

20 (4) the private entity's ability to meet schedules;

21 (5) costing methodology; or

22 (6) any other information the authority considers  
23 relevant or necessary.

24 (g) In issuing a request for proposals under Subsection (f),  
25 an authority may solicit input from entities qualified under  
26 Subsection (e) or any other person. An authority may also solicit  
27 input regarding alternative technical concepts after issuing a

1 request under Subsection (f).

2 (h) An authority shall rank each proposal based on the  
3 criteria described in the request for proposals and select the  
4 private entity whose proposal offers the best value to the  
5 authority.

6 (i) An authority may require that an unsolicited proposal be  
7 accompanied by a nonrefundable fee sufficient to cover all or part  
8 of its cost to review the proposal.

9 (j) An authority shall pay an unsuccessful private entity  
10 that submits a response to a request for detailed proposals under  
11 Subsection (f) a stipulated amount of the final contract price for  
12 any costs incurred in preparing that proposal. The stipulated  
13 amount must be stated in the request for proposals and may not  
14 exceed the value of any work product contained in the proposal that  
15 can, as determined by the authority, be used by the authority in the  
16 performance of its functions. After payment of the stipulated  
17 amount:

18 (1) the authority owns the exclusive rights to, and  
19 may make use of any work product contained in, the proposal,  
20 including the technologies, techniques, methods, processes, and  
21 information contained in the project design; and

22 (2) the work product contained in the proposal becomes  
23 the property of the authority.

24 (k) An authority shall prescribe the general form of an  
25 exclusive development agreement and may include any matter the  
26 authority considers advantageous to the authority. The authority  
27 and the private entity shall negotiate the specific terms of an

1 exclusive development agreement.

2 (1) Subchapter A, Chapter 223, of this code and Chapter  
3 2254, Government Code, do not apply to an exclusive development  
4 agreement entered into under Section 370.305.

5 Sec. 370.307. CONFIDENTIALITY OF NEGOTIATIONS FOR  
6 EXCLUSIVE DEVELOPMENT AGREEMENTS. To encourage private entities to  
7 submit proposals under Section 370.306, the following information  
8 is confidential, is not subject to disclosure, inspection, or  
9 copying under Chapter 552, Government Code, and is not subject to  
10 disclosure, discovery, subpoena, or other means of legal compulsion  
11 for its release until a final contract for a proposed project is  
12 entered into:

13 (1) all or part of a proposal submitted by a private  
14 entity for an exclusive development agreement, except information  
15 provided under Sections 370.306(b)(1) and (2);

16 (2) supplemental information or material submitted by  
17 a private entity in connection with a proposal for an exclusive  
18 development agreement; and

19 (3) information created or collected by an authority  
20 or its agent during consideration of a proposal for an exclusive  
21 development agreement.

22 Sec. 370.308. PERFORMANCE AND PAYMENT SECURITY. (a)  
23 Notwithstanding Section 223.006 and the requirements of Subchapter  
24 B, Chapter 2253, Government Code, an authority shall require a  
25 private entity entering into an exclusive development agreement  
26 under Section 370.005 to provide a performance and payment bond or  
27 an alternative form of security in an amount sufficient to:

1           (1) ensure the proper performance of the agreement;

2 and

3           (2) protect:

4                   (A) the authority; and

5                   (B) payment bond beneficiaries who have a direct  
6 contractual relationship with the private entity or a subcontractor  
7 of the private entity to supply labor or material.

8           (b) A performance and payment bond or alternative form of  
9 security shall be in an amount equal to the cost of constructing or  
10 maintaining the project.

11           (c) If an authority determines that it is impracticable for  
12 a private entity to provide security in the amount described by  
13 Subsection (b), the authority shall set the amount of the bonds or  
14 the alternative forms of security.

15           (d) A payment or performance bond or alternative form of  
16 security is not required for the portion of an agreement that  
17 includes only design or planning services, the performance of  
18 preliminary studies, or the acquisition of real property.

19           (e) The amount of the payment security must not be less than  
20 the amount of the performance security.

21           (f) In addition to performance and payment bonds, an  
22 authority may require the following alternative forms of security:

23                   (1) a cashier's check drawn on a financial entity  
24 specified by the authority;

25                   (2) a United States bond or note;

26                   (3) an irrevocable bank letter of credit; or

27                   (4) any other form of security determined suitable by

1 the authority.

2 (g) An authority by rule shall prescribe requirements for  
3 alternative forms of security provided under this section.

4 Sec. 370.309. OWNERSHIP OF TRANSPORTATION PROJECTS. (a) A  
5 transportation project that is the subject of a development  
6 agreement with a private entity, including the facilities acquired  
7 or constructed on the project, is public property and belongs to the  
8 authority that entered into the agreement.

9 (b) An authority may enter into an agreement that provides  
10 for the lease of rights-of-way, the granting of easements, the  
11 issuance of franchises, licenses, or permits, or any lawful uses to  
12 enable a private entity to construct, operate, and maintain a  
13 transportation project, including supplemental facilities. At the  
14 termination of the agreement, the transportation project,  
15 including the facilities, must be in a state of proper maintenance  
16 as determined by the authority and shall be returned to the  
17 authority in satisfactory condition at no further cost.

18 Sec. 370.310. TERMS OF PRIVATE PARTICIPATION. An authority  
19 shall negotiate the terms of private participation in a  
20 transportation project, including:

21 (1) methods to determine the applicable cost, profit,  
22 and project distribution between the private equity investors and  
23 the authority;

24 (2) reasonable methods to determine and classify toll  
25 rates;

26 (3) acceptable safety and policing standards; and

27 (4) other applicable professional, consulting,



1 construction, operation, and maintenance standards, expenses, and  
2 costs.

3 Sec. 370.311. RULES, PROCEDURES, AND GUIDELINES GOVERNING  
4 NEGOTIATING PROCESS. (a) An authority shall adopt rules,  
5 procedures, and other guidelines governing negotiations to promote  
6 fairness, obtain private participants in transportation projects,  
7 and promote confidence among those participants. The rules must  
8 contain criteria relating to the qualifications of the participants  
9 and the award of the contracts and may authorize the authority to  
10 impose a fee for reviewing proposals for private involvement in a  
11 transportation project.

12 (b) An authority shall have up-to-date procedures for  
13 participation in negotiations on transportation projects.

14 (c) An authority has exclusive judgment to determine the  
15 terms of an agreement.

16 (d) A proposal and related information submitted for  
17 private involvement in a transportation project, and all documents  
18 and information created by the authority or its agents during the  
19 authority's consideration of a proposal for private involvement in  
20 a transportation project, are excepted from disclosure,  
21 inspection, or copying under Chapter 552, Government Code, and are  
22 not subject to discovery, subpoena, or other means of legal  
23 compulsion for release, until the authority has entered into an  
24 agreement or until it has determined not to develop a proposed  
25 project through an agreement with a private entity.

26 (e) An authority may agree to acquire the work product of an  
27 unsuccessful proposer for the development of a project through an

1 exclusive development agreement or other form of private  
2 involvement in a transportation project if the payment for such  
3 work product does not exceed its value to the authority.

4 Sec. 370.312. PARTICIPATION ON CERTAIN OTHER BOARDS,  
5 COMMISSIONS, OR PUBLIC BODIES. (a) An authority may participate in  
6 and designate board members to serve as representatives on boards,  
7 commissions, or public bodies, the purposes of which are to promote  
8 the development of joint toll facilities in this state, between  
9 this state and other states of the United States, or between this  
10 state and the United Mexican States or states of the United Mexican  
11 States.

12 (b) A fee or expense associated with authority  
13 participation under this section may be reimbursed from money in  
14 the authority's feasibility study fund.

15 Sec. 370.313. COMBINATION OF ENGINEERING, DESIGN, AND  
16 CONSTRUCTION SERVICES. An authority may procure a combination of  
17 engineering, design, and construction services in a single  
18 procurement for a transportation project provided that any contract  
19 awarded must be the one that results in the best value to the  
20 authority.

21 Sec. 370.314. PERFORMANCE AND PAYMENT BONDS AND SECURITY.  
22 Notwithstanding Chapter 2253, Government Code, an authority shall  
23 require any party to an agreement to operate or maintain a  
24 transportation project to provide performance and payment bonds or  
25 other forms of security in amounts considered by the authority to be  
26 adequate to protect the authority and to assure performance of all  
27 obligations to the authority and to subcontractors providing

1 materials or labor for a transportation project.

2 Sec. 370.315. TRANS-TEXAS CORRIDOR PROJECTS. In the event  
3 that an authority is requested by the commission to participate in  
4 the development of a transportation project that has been  
5 designated as part of the Trans-Texas Corridor, the authority shall  
6 have, in addition to all powers granted in this chapter, all powers  
7 of the department related to the development of Trans-Texas  
8 Corridor projects.

9 [Sections 370.316-370.330 reserved for expansion]

10 SUBCHAPTER H. DISSOLUTION OF AUTHORITY

11 Sec. 370.331. VOLUNTARY DISSOLUTION. (a) An authority may  
12 not be dissolved unless the dissolution is approved by the  
13 commission.

14 (b) A board may submit a request to the commission for  
15 approval to dissolve.

16 (c) The commission may approve a request to dissolve only  
17 if:

18 (1) all debts, obligations, and liabilities of the  
19 authority have been paid and discharged or adequate provision has  
20 been made for the payment of all debts, obligations, and  
21 liabilities;

22 (2) there are no suits pending against the authority,  
23 or adequate provision has been made for the satisfaction of any  
24 judgment, order, or decree that may be entered against it in any  
25 pending suit; and

26 (3) the authority has commitments from other  
27 governmental entities to assume jurisdiction of all authority

1 transportation facilities.

2 Sec. 370.332. INVOLUNTARY DISSOLUTION. (a) The commission  
3 by order may require an authority to dissolve if the commission  
4 determines that the authority has not substantially complied with  
5 the requirements of a commission rule or an agreement between the  
6 department and the authority.

7 (b) The commission may not require dissolution unless:

8 (1) the conditions described in Sections  
9 370.331(c)(1) and (2) have been met; and

10 (2) the holders of any indebtedness have evidenced  
11 their agreement to the dissolution.

12 SECTION 2.02. Section 361.003, Transportation Code, is  
13 repealed.

14 SECTION 2.03. (a) This article takes effect immediately if  
15 this Act receives a vote of two-thirds of all members elected to  
16 each house, as provided by Section 39, Article III, Texas  
17 Constitution. If this Act does not receive the vote necessary for  
18 immediate effect, this article takes effect September 1, 2003.

19 (b) This article does not affect the term of a member of the  
20 board of directors of a regional mobility authority serving on the  
21 effective date of this article.

22 ARTICLE 3. EXCLUSIVE DEVELOPMENT AGREEMENTS

23 SECTION 3.01. Chapter 201, Transportation Code, is amended  
24 by adding Subchapter N to read as follows:

25 SUBCHAPTER N. EXCLUSIVE DEVELOPMENT AGREEMENTS

26 Sec. 201.951. DEFINITIONS. In this subchapter:

27 (1) "Exclusive development agreement" means an

1 agreement with a private entity that, at a minimum, provides for the  
2 design and construction of a transportation project of the  
3 department and may also provide for the financing, acquisition,  
4 maintenance, or operation of a transportation project.

5 (2) "Transportation project" includes a facility as  
6 defined by Section 227.003.

7 Sec. 201.9511. APPLICABILITY OF BIDDING PROCEDURE  
8 REQUIREMENT. An exclusive development agreement is not subject to  
9 a requirement or restriction of Section 222.103(i).

10 Sec. 201.952. AUTHORITY TO ENTER INTO EXCLUSIVE DEVELOPMENT  
11 AGREEMENTS. (a) Subject to Section 201.953, the department may  
12 enter into exclusive development agreements.

13 (b) The department may negotiate provisions relating to  
14 professional and consulting services in connection with an  
15 exclusive development agreement.

16 (c) Subject to Section 201.953, the department may use any  
17 constitutionally permissible source of funds without restriction  
18 on the number of exclusive development agreements that may be  
19 entered into.

20 Sec. 201.953. LIMITATION ON DEPARTMENT FINANCIAL  
21 PARTICIPATION. The amount of money disbursed by the department  
22 from the state highway fund during a federal fiscal year to pay the  
23 costs under exclusive development agreements may not exceed 40  
24 percent of the obligation authority under the federal-aid highway  
25 program that is distributed to this state for the fiscal year.

26 Sec. 201.954. PROCESS FOR ENTERING INTO EXCLUSIVE  
27 DEVELOPMENT AGREEMENTS. (a) If the department enters into an

1 exclusive development agreement, the department shall use a  
2 competitive procurement process that provides the best value for  
3 the department. The department may accept unsolicited proposals  
4 for a proposed project or solicit proposals in accordance with this  
5 section.

6 (b) The department shall establish rules and procedures for  
7 accepting unsolicited proposals that require the private entity to  
8 include in the proposal:

9 (1) information regarding the proposed project  
10 location, scope, and limits;

11 (2) information regarding the private entity's  
12 qualifications, experience, technical competence, and capability  
13 to develop the project; and

14 (3) a proposed financial plan for the proposed project  
15 that includes, at a minimum:

16 (A) projected project costs; and

17 (B) proposed sources of funds.

18 (c) The department shall publish a request for competing  
19 proposals and qualifications in the Texas Register that includes  
20 the criteria used to evaluate the proposals, the relative weight  
21 given to the criteria, and a deadline by which proposals must be  
22 received if:

23 (1) the department decides to issue a request for  
24 qualifications for a proposed project; or

25 (2) the department authorizes the further evaluation  
26 of an unsolicited proposal.

27 (d) A proposal submitted in response to a request published

1 under Subsection (c) must contain, at a minimum, the information  
2 required by Subsections (b)(2) and (3).

3 (e) The department may interview a private entity  
4 submitting an unsolicited proposal or responding to a request under  
5 Subsection (c). The department shall evaluate each proposal based  
6 on the criteria described in the notice. The department must  
7 qualify at least two private entities to submit detailed proposals  
8 for a project under Subsection (f) unless the department does not  
9 receive more than one proposal or one response to a request under  
10 Subsection (c).

11 (f) The department shall issue a request for detailed  
12 proposals from all private entities qualified under Subsection (e)  
13 if the department proceeds with the further evaluation of a  
14 proposed project. A request under this subsection may require  
15 additional information relating to:

16 (1) the private entity's qualifications and  
17 demonstrated technical competence;

18 (2) the feasibility of developing the project as  
19 proposed;

20 (3) detailed engineering or architectural designs;

21 (4) the private entity's ability to meet schedules;

22 (5) costing methodology; or

23 (6) any other information the department considers  
24 relevant or necessary.

25 (g) In issuing a request for proposals under Subsection (f),  
26 the department may solicit input from entities qualified under  
27 Subsection (e) or any other person. The department may also solicit

1 input regarding alternative technical concepts after issuing a  
2 request under Subsection (f).

3 (h) The department shall rank each proposal based on the  
4 criteria described in the request for proposals and select the  
5 private entity whose proposal offers the best value to the  
6 department.

7 (i) The department may require that an unsolicited proposal  
8 be accompanied by a nonrefundable fee sufficient to cover all or  
9 part of its cost to review the proposal.

10 (j) The department may pay an unsuccessful private entity  
11 that submits a response to a request for detailed proposals under  
12 Subsection (f) a stipulated amount of the final contract price for  
13 any costs incurred in preparing that proposal. The stipulated  
14 amount must be stated in the request for proposals and may not  
15 exceed the value of any work product contained in the proposal that  
16 can, as determined by the department, be used by the department in  
17 the performance of its functions. After payment of the stipulated  
18 amount:

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

23 (2) the work product contained in the proposal becomes  
24 the property of the department.

25 (k) The department may prescribe the general form of an  
26 exclusive development agreement and may include any matter the  
27 department considers advantageous to the department. The



1 department and the private entity shall negotiate the specific  
2 terms of an exclusive development agreement.

3 (1) Subchapter A, Chapter 223, of this code and Chapter  
4 2254, Government Code, do not apply to an exclusive development  
5 agreement entered into under Sections 201.952.

6 Sec. 201.955. CONFIDENTIALITY OF NEGOTIATIONS FOR  
7 EXCLUSIVE DEVELOPMENT AGREEMENTS. To encourage private entities to  
8 submit proposals under Section 201.954, the following information  
9 is confidential, is not subject to disclosure, inspection, or  
10 copying under Chapter 552, Government Code, and is not subject to  
11 disclosure, discovery, subpoena, or other means of legal compulsion  
12 for its release until a final contract for a proposed project is  
13 entered into:

14 (1) all or part of a proposal submitted by a private  
15 entity for an exclusive development agreement, except information  
16 provided under Section 201.954(b)(1) and (2);

17 (2) supplemental information or material submitted by  
18 a private entity in connection with a proposal for an exclusive  
19 development agreement; and

20 (3) information created or collected by the department  
21 or its agent during consideration of a proposal for an exclusive  
22 development agreement.

23 Sec. 201.956. PERFORMANCE AND PAYMENT SECURITY. (a)  
24 Notwithstanding Section 223.006 and the requirements of Subchapter  
25 B, Chapter 2253, Government Code, the department shall require a  
26 private entity entering into an exclusive development agreement  
27 under Section 201.952 to provide a performance and payment bond or

1 an alternative form of security in an amount sufficient to:

2 (1) ensure the proper performance of the agreement;

3 and

4 (2) protect:

5 (A) the department; and

6 (B) payment bond beneficiaries who have a direct  
7 contractual relationship with the private entity or a subcontractor  
8 of the private entity to supply labor or material.

9 (b) A performance and payment bond or alternative form of  
10 security shall be in an amount equal to the cost of constructing or  
11 maintaining the project.

12 (c) If the department determines that it is impracticable  
13 for a private entity to provide security in the amount described by  
14 Subsection (b), the department shall set the amount of the bonds or  
15 the alternative forms of security.

16 (d) A payment or performance bond or alternative form of  
17 security is not required for the portion of an agreement that  
18 includes only design or planning services, the performance of  
19 preliminary studies, or the acquisition of real property.

20 (e) The amount of the payment security must not be less than  
21 the amount of the performance security.

22 (f) In addition to performance and payment bonds, the  
23 department may require the following alternative forms of security:

24 (1) a cashier's check drawn on a financial entity  
25 specified by the department;

26 (2) a United States bond or note;

27 (3) an irrevocable bank letter of credit; or

1           (4) any other form of security determined suitable by  
2 the department.

3           (g) The department by rule shall prescribe requirements for  
4 alternative forms of security provided under this section.

5           Sec. 201.957. EXPIRATION. This subchapter expires August  
6 31, 2011.

7           SECTION 3.02. Section 222.103(j), Transportation Code, is  
8 repealed.

9           SECTION 3.03. This article takes effect immediately if this  
10 Act receives a vote of two-thirds of all the members elected to each  
11 house, as provided by Section 39, Article III, Texas Constitution.  
12 If this Act does not receive the vote necessary for immediate  
13 effect, this article takes effect September 1, 2003.

14           ARTICLE 4. ADVANCE ACQUISITION OF PROPERTY

15           SECTION 4.01. The heading to Chapter 202, Transportation  
16 Code, is amended to read as follows:

17           CHAPTER 202. CONTROL OF TRANSPORTATION [~~HIGHWAY~~] ASSETS

18           SECTION 4.02. Chapter 202, Transportation Code, is amended  
19 by adding Subchapter F to read as follows:

20           SUBCHAPTER F. ADVANCE ACQUISITION OF PROPERTY

21           Sec. 202.111. DEFINITION. In this subchapter, "advance  
22 acquisition" means an acquisition by the commission under Section  
23 202.112.

24           Sec. 202.112. ADVANCE ACQUISITIONS. (a) The commission  
25 may make an acquisition of property for possible use in or in  
26 connection with a transportation facility, including a facility as  
27 defined by Section 227.003, before a final decision has been made as

1 to whether the transportation facility will be located on that  
2 property. An advance acquisition may be made under any terms and  
3 conditions the commission considers proper.

4 (b) An advance acquisition shall be made by the commission  
5 using the procedures authorized under Subchapter D of Chapter 203  
6 or other law authorizing the commission or the department to  
7 acquire real property or an interest in real property for a  
8 transportation facility. If the commission acquires real property  
9 or an interest in real property under Subchapter D of Chapter 203 or  
10 other law, the commission may make an advance acquisition in the  
11 manner provided by this subchapter.

12 (c) The commission may not make an advance acquisition by  
13 condemnation.

14 Sec. 202.113. MANAGEMENT. If requested by the department,  
15 property acquired by advance acquisition shall be managed by the  
16 General Land Office on behalf of the department. The property may  
17 not be sold or encumbered in any way by the General Land Office  
18 except under a lease approved by the department.

19 Sec. 202.114. DISPOSAL OF SURPLUS PROPERTY. The commission  
20 shall dispose of property acquired by advance acquisition that is  
21 not needed for a transportation facility in the manner provided by  
22 Subchapter B.

23 ARTICLE 5. DRIVER RESPONSIBILITY

24 SECTION 5.01. Subtitle I, Title 7, Transportation Code, is  
25 amended by adding Chapter 708 to read as follows:

26 CHAPTER 708. DRIVER RESPONSIBILITY PROGRAM

27 SUBCHAPTER A. GENERAL PROVISIONS

1       Sec. 708.001. DEFINITIONS. In this chapter, "department"  
2 and "license" have the meanings assigned by Section 521.001.

3       Sec. 708.002. RULES. The department shall adopt and  
4 enforce rules to implement and enforce this chapter.

5       Sec. 708.003. FINAL CONVICTIONS. For purposes of this  
6 chapter, a conviction for an offense to which this chapter applies  
7 is a final conviction, regardless of whether the sentence is  
8 probated.

9       [Sections 708.004-708.050 reserved for expansion]

10       SUBCHAPTER B. DRIVER'S LICENSE POINTS SURCHARGE

11       Sec. 708.051. NONAPPLICABILITY. This subchapter does not  
12 apply to:

13               (1) a conviction that became final before September 1,  
14 2003; or

15               (2) an offense covered by Subchapter C.

16       Sec. 708.052. ASSIGNMENT OF POINTS FOR CERTAIN CONVICTIONS.

17       (a) The driver's license of a person accumulates a point under this  
18 subchapter as of the date the department records a conviction of the  
19 person under Section 521.042 or other applicable law.

20       (b) For each conviction arising out of a separate  
21 transaction, the department shall assign points to a person's  
22 license as follows:

23               (1) one point for an offense under Section 545.413 or  
24 an analogous law of another state;

25               (2) two points for a moving violation of the traffic  
26 law of this state or another state that is not described by  
27 Subdivision (1) or (3); and

1           (3) three points for a moving violation of the traffic  
2 law of this state, another state, or a political subdivision of this  
3 or another state that resulted in an accident.

4           (c) The department by rule shall designate the offenses that  
5 constitute a moving violation of the traffic law under this  
6 section.

7           Sec. 708.053. ANNUAL SURCHARGE FOR POINTS. Each year, the  
8 department shall assess a surcharge on the license of a person who  
9 has accumulated six or more points under this subchapter during the  
10 preceding 36-month period.

11           Sec. 708.054. AMOUNT OF POINTS SURCHARGE. The amount of a  
12 surcharge under this chapter is \$100 for the first six points and  
13 \$25 for each additional point.

14           Sec. 708.055. NOTICE OF ASSIGNMENT OF FIFTH POINT. The  
15 department shall notify the holder of a driver's license of the  
16 assignment of a fifth point on that license by first class mail sent  
17 to the person's most recent address as shown on the records of the  
18 department.

19           [Sections 708.056-708.100 reserved for expansion]

20           SUBCHAPTER C. SURCHARGES FOR CERTAIN CONVICTIONS AND  
21                                   LICENSE SUSPENSIONS

22           Sec. 708.101. NONAPPLICABILITY. This subchapter does not  
23 apply to a conviction that became final before September 1, 2003.

24           Sec. 708.102. SURCHARGE FOR CONVICTION OF CERTAIN  
25 INTOXICATED DRIVER OFFENSES. (a) In this section, "offense  
26 relating to the operating of a motor vehicle while intoxicated" has  
27 the meaning assigned by Section 49.09, Penal Code.

1       (b) Each year the department shall assess a surcharge on the  
2 license of each person who during the preceding 36-month period has  
3 been finally convicted of an offense relating to the operating of a  
4 motor vehicle while intoxicated.

5       (c) The amount of a surcharge under this section is \$1,000  
6 per year, except that for a third or subsequent conviction within a  
7 36-month period, the amount of the surcharge is \$1,500 per year.

8       (d) A surcharge under this section for the same conviction  
9 may not be assessed in more than three years.

10       Sec. 708.103. SURCHARGE FOR CONVICTION OF DRIVING WHILE  
11 LICENSE INVALID OR WITHOUT FINANCIAL RESPONSIBILITY. (a) Each  
12 year the department shall assess a surcharge on the license of each  
13 person who during the preceding 36-month period has been convicted  
14 of an offense under Section 521.457, 601.191, or 601.371.

15       (b) The amount of a surcharge under this section is \$250 per  
16 year.

17       Sec. 708.104. SURCHARGE FOR CONVICTION OF DRIVING WITHOUT  
18 VALID LICENSE. (a) Each year the department shall assess a  
19 surcharge on the license of a person who during the preceding  
20 36-month period has been convicted of an offense under Section  
21 521.021.

22       (b) The amount of a surcharge under this section is \$100 per  
23 year.

24       (c) A surcharge under this section for the same conviction  
25 may not be assessed in more than three years.

26       [Sections 708.105-708.150 reserved for expansion]

27       SUBCHAPTER D. COLLECTION OF SURCHARGES

1       Sec. 708.151. NOTICE OF SURCHARGE. The department shall  
2 notify the holder of a driver's license of the assessment of a  
3 surcharge on that license by first class mail sent to the person's  
4 most recent address as shown on the records of the department. The  
5 notice must specify the date by which the surcharge must be paid and  
6 state the consequences of a failure to pay the surcharge.

7       Sec. 708.152. FAILURE TO PAY SURCHARGE. (a) If before the  
8 30th day after the date the department sends a notice under Section  
9 708.151 the person fails to pay the amount of a surcharge on the  
10 person's license or fails to enter into an installment payment  
11 agreement with the department, the license of the person is  
12 automatically suspended.

13       (b) A license suspended under this section remains  
14 suspended until the person pays the amount of the surcharge and any  
15 related costs.

16       Sec. 708.153. INSTALLMENT PAYMENT OF SURCHARGE. (a) The  
17 department by rule shall provide for the payment of a surcharge in  
18 installments.

19       (b) A rule under this section:

20           (1) may not permit a person to pay a surcharge:

21                   (A) of less than \$2,300 over a period of more than  
22 12 consecutive months; or

23                   (B) of \$2,300 or more over a period of more than  
24 24 consecutive months; and

25           (2) may provide that if the person fails to make a  
26 required installment payment, the department may declare the amount  
27 of the unpaid surcharge immediately due and payable.



1       Sec. 708.154. CREDIT CARD PAYMENT OF SURCHARGE. (a) The  
2 department by rule may authorize the payment of a surcharge by use  
3 of a credit card. The rules shall require the person to pay all  
4 costs incurred by the department in connection with the acceptance  
5 of the credit card.

6       (b) If a surcharge or a related cost is paid by credit card  
7 and the amount is subsequently reversed by the issuer of the credit  
8 card, the license of the person is automatically suspended.

9       (c) A license suspended under this section remains  
10 suspended until the person pays the amount of the surcharge and any  
11 related costs.

12       Sec. 708.155. CONTRACTS FOR COLLECTION OF SURCHARGES. The  
13 department may enter into a contract with a private attorney or a  
14 public or private vendor for the provision of services for the  
15 collection of surcharges receivable under this chapter.

16       Sec. 708.156. REMITTANCE OF SURCHARGES COLLECTED TO  
17 COMPTROLLER. Each surcharge collected by the department under this  
18 chapter shall be remitted to the comptroller as required by Section  
19 780.002, Health and Safety Code.

20       SECTION 5.02. Subtitle B, Title 9, Health and Safety Code,  
21 is amended by adding Chapter 780 to read as follows:

22       CHAPTER 780. TRAUMA FACILITIES AND EMERGENCY MEDICAL SERVICES

23       Sec. 780.001. DEFINITIONS. In this chapter:

24               (1) "Account" means the designated trauma facility and  
25 emergency medical services account established under Section  
26 780.003.

27               (2) "Commissioner" means the commissioner of public

1 health.

2 (3) "Department" means the Texas Department of Health.

3 Sec. 780.002. DEPOSITS TO ACCOUNT. (a) On the first Monday  
4 of each month, the Department of Public Safety shall remit the  
5 surcharges collected during the previous month under the driver  
6 responsibility program operated by that department under Chapter  
7 708, Transportation Code, to the comptroller.

8 (b) The comptroller shall deposit 49.5 percent of the money  
9 received under Subsection (a) to the credit of the account  
10 established under this chapter and 49.5 percent of the money to the  
11 general revenue fund. The remaining one percent of the amount of  
12 the surcharges shall be deposited to the general revenue fund and  
13 may be appropriated only to the Department of Public Safety for  
14 administration of the driver responsibility program operated by  
15 that department under Chapter 708, Transportation Code.

16 Sec. 780.003. ACCOUNT. (a) The designated trauma facility  
17 and emergency medical services account is created as an account in  
18 the state treasury. Money in the account may be appropriated only  
19 to the department for the purposes described by Section 780.004.

20 (b) The account is composed of money deposited to the credit  
21 of the account under Section 780.002, and the earnings of the  
22 account.

23 (c) Sections 403.095 and 404.071, Government Code, do not  
24 apply to the account.

25 Sec. 780.004. PAYMENTS FROM THE ACCOUNT. (a) The  
26 commissioner, with advice and counsel from the chairpersons of the  
27 trauma service area regional advisory councils, shall use money

1 appropriated from the account established under this chapter to  
2 fund designated trauma facilities, county and regional emergency  
3 medical services, and trauma care systems in accordance with this  
4 section.

5 (b) The commissioner shall maintain a reserve of \$500,000 of  
6 money appropriated from the account for extraordinary emergencies.

7 (c) In any fiscal year, the commissioner shall use at least  
8 96 percent of the money appropriated from the account, after any  
9 amount necessary to maintain the reserve established by Subsection  
10 (b) is deducted, to fund a portion of the uncompensated trauma care  
11 provided at facilities designated as state trauma facilities by the  
12 department. The administrator of a designated facility may request  
13 the presiding officer of a regional advisory council to petition  
14 the department for disbursement of funds to a designated trauma  
15 facility in the chairperson's trauma service area that has provided  
16 uncompensated trauma care. Funds may be disbursed under this  
17 subsection based on a proportionate share of uncompensated trauma  
18 care provided in the state and may be used to fund innovative  
19 projects to enhance the delivery of patient care in the overall  
20 emergency medical services and trauma care system.

21 (d) In any fiscal year, the commissioner shall use not more  
22 than two percent of the money appropriated from the account, after  
23 any amount necessary to maintain the reserve established by  
24 Subsection (b) is deducted, to fund, in connection with an effort to  
25 provide coordination with the appropriate trauma service area, the  
26 cost of supplies, operational expenses, education and training,  
27 equipment, vehicles, and communications systems for local

1 emergency medical services. The money shall be distributed on  
2 behalf of eligible recipients in each county to the trauma service  
3 area regional advisory council for that county. To receive a  
4 distribution under this subsection, the regional advisory council  
5 must be incorporated as an entity that is exempt from federal income  
6 tax under Section 501(a), Internal Revenue Code of 1986, and its  
7 subsequent amendments, by being listed as an exempt organization  
8 under Section 501(c)(3) of the code. The share of the money  
9 allocated to the eligible recipients in a county's geographic area  
10 shall be based on the relative geographic size and population of the  
11 county and on the relative number of emergency or trauma care runs  
12 performed by eligible recipients in the county. Money that is not  
13 disbursed by a regional advisory council to eligible recipients for  
14 approved functions by the end of the fiscal year in which the funds  
15 were disbursed shall be returned to the department to be used in  
16 accordance with Subsection (c).

17 (e) In any fiscal year, the commissioner may use not more  
18 than one percent of the money appropriated from the account, after  
19 any amount necessary to maintain the reserve established by  
20 Subsection (b) is deducted, for operation of the 22 trauma service  
21 areas and for equipment, communications, and education and training  
22 for the areas. Money distributed under this subsection shall be  
23 distributed on behalf of eligible recipients in each county to the  
24 trauma service area regional advisory council for that county. To  
25 receive a distribution under this subsection, the regional advisory  
26 council must be incorporated as an entity that is exempt from  
27 federal income tax under Section 501(a), Internal Revenue Code of

1 1986, and its subsequent amendments, by being listed as an exempt  
2 organization under Section 501(c)(3) of the code. A regional  
3 advisory council's share of money distributed under this section  
4 shall be based on the relative geographic size and population of  
5 each trauma service area and on the relative amount of trauma care  
6 provided. Money that is not disbursed by a regional advisory  
7 council to eligible recipients for approved functions by the end of  
8 the fiscal year in which the funds were disbursed shall be returned  
9 to the department to be used in accordance with Subsection (c).

10 (f) In any fiscal year, the commissioner may use not more  
11 than one percent of money appropriated from the account, after any  
12 amount necessary to maintain the reserve established by Subsection  
13 (b) is deducted, to fund the administrative costs of the bureau of  
14 emergency management of the department associated with  
15 administering the trauma program, the state emergency medical  
16 services program, and the account and to fund the costs of  
17 monitoring and providing technical assistance for those programs  
18 and that account.

19 Sec. 780.005. CONTROL OF EXPENDITURES FROM THE ACCOUNT.  
20 Money distributed under Section 780.004 shall be used in compliance  
21 with Section 780.004 on the authorization of the executive  
22 committee of the trauma service area regional advisory council.

23 Sec. 780.006. LOSS OF FUNDING ELIGIBILITY. For a period of  
24 not less than one year or more than three years, as determined by  
25 the commissioner, the department may not disburse money under  
26 Section 780.004 to a county, municipality, or local recipient that  
27 the commissioner finds used money in violation of that section.

1           SECTION 5.03. Not later than December 1, 2004, the Texas  
2 Department of Health shall submit to the lieutenant governor and  
3 the speaker of the house of representatives a report concerning the  
4 use of money under Chapter 780, Health and Safety Code, as added by  
5 this article, and any recommended changes to law to ensure  
6 appropriate funding and coordination of services.

7                           ARTICLE 6. RAIL FACILITIES

8           SECTION 6.01. The legislature finds that:

9                   (1) the transportation of materials, products, and  
10 people is essential to the continued economic vitality of this  
11 state;

12                   (2) the state contains many industries that are  
13 heavily dependent on rail transportation for the movement of  
14 materials and products;

15                   (3) the rail transportation system in some areas of  
16 this state is adversely affected by abandonment and discontinuance  
17 proceedings that cause the cessation of rail service to those  
18 areas;

19                   (4) materials and products that cannot be transported  
20 by rail are typically transported by truck over state highways and  
21 local roads and bridges, thereby contributing to increased  
22 congestion and roadway maintenance costs, decreased safety for the  
23 traveling public, and a decrease in the expected life of those  
24 roadways;

25                   (5) the provision of passenger rail facilities and  
26 systems will contribute to reducing the number of persons traveling  
27 over state highways and local roads and bridges, thereby resulting

1 in decreased congestion and improved safety and air quality; and

2 (6) it is in the interest of all citizens of this state  
3 that rail facilities and systems be part of a comprehensive state  
4 transportation system to provide for the most efficient and  
5 economical movement of essential materials and products to local,  
6 national, and export markets and to provide for improved mobility  
7 on, and the increased reliability of, the state's transportation  
8 system.

9 SECTION 6.02. Title 5, Transportation Code, is amended by  
10 adding Subtitle A to read as follows:

11 SUBTITLE A. TEXAS DEPARTMENT OF TRANSPORTATION

12 CHAPTER 91. RAIL FACILITIES

13 SUBCHAPTER A. GENERAL PROVISIONS

14 Sec. 91.001. DEFINITIONS. In this chapter:

15 (1) "Commission" means the Texas Transportation  
16 Commission.

17 (2) "Construction" includes design, planning, and  
18 preliminary studies.

19 (3) "Department" means the Texas Department of  
20 Transportation.

21 (4) "Maintenance facility" includes:  
22 (A) a workshop;  
23 (B) a service, storage, security, or personnel  
24 facility; and  
25 (C) equipment for a facility described by  
26 Paragraph (B).

27 (5) "Operation" includes policing.

1           (6) "Rail facility" means real or personal property,  
2 or any interest in that property, that is determined to be necessary  
3 or convenient for the provision of a freight or passenger rail  
4 facility or system, including commuter rail, intercity rail, and  
5 high-speed rail. The term includes all property or interests  
6 necessary or convenient for the acquiring, providing, using, or  
7 equipping of a rail facility or system, including rights-of-way,  
8 rolling stock, trackwork, train controls, stations, and  
9 maintenance facilities.

10           (7) "Revenue" includes a charge, toll, rent, payment,  
11 user fee, franchise fee, license fee, fare, tariff, and other  
12 consideration:

13                   (A) received in return for the use of:  
14                           (i) a rail facility; or  
15                           (ii) a service offered in connection with  
16 the operation of a rail facility; or

17                   (B) resulting from a sale or conveyance of a rail  
18 facility.

19           (8) "Right-of-way" means a strip of land of a length  
20 and width determined by the commission to be required, necessary,  
21 or convenient for the provision of a rail facility or system and the  
22 space over, under, or on the land where trackwork is to be located.

23           (9) "Station" means a passenger or freight service  
24 building, terminal, station, ticketing facility, waiting area,  
25 platform, concession, elevator, escalator, facility for  
26 handicapped access, access road, parking facility for passengers,  
27 baggage handling facility, or local maintenance facility, together



1 with any interest in real property necessary or convenient for  
2 those items.

3 (10) "Surplus revenue" means:

4 (A) revenue that exceeds the department's debt  
5 service requirements, coverage requirements of any bond indenture,  
6 costs of operation and maintenance, and cost of expansion or  
7 improvement of a rail facility or system; and

8 (B) reserves and reserve funds maintained by the  
9 department.

10 (11) "Trackwork" means track, track beds, track bed  
11 preparation, ties, rail fasteners, slabs, rails, emergency  
12 crossovers, setout tracks, storage tracks, drains, fences,  
13 ballast, switches, bridges, and structures.

14 (12) "Train controls" includes:

15 (A) signals, lights, and other signaling;

16 (B) interlocking equipment;

17 (C) speed monitoring equipment;

18 (D) braking systems;

19 (E) central traffic control facilities; and

20 (F) communication systems.

21 Sec. 91.002. PUBLIC PURPOSE. The following functions are  
22 public and governmental functions, exercised for a public purpose,  
23 and matters of public necessity:

24 (1) the acquisition, financing, construction,  
25 operation, and maintenance of a rail facility under this chapter;

26 (2) the sale, lease, or license of a rail facility to a  
27 rail operator and other public or private persons under this

1 chapter; and

2 (3) the exercise of any other power granted under this  
3 chapter to the commission and the department.

4 Sec. 91.003. CHAPTER LIBERALLY CONSTRUED. This chapter  
5 shall be liberally construed to effect its purposes.

6 Sec. 91.004. RULES. The commission may adopt rules and the  
7 department may adopt procedures and prescribe forms necessary to  
8 implement this chapter.

9 Sec. 91.005. GENERAL POWERS. The department may:

10 (1) plan and make policies for the location,  
11 construction, maintenance, and operation of a rail facility or  
12 system in this state;

13 (2) acquire, finance, construct, maintain, and  
14 operate a passenger or freight rail facility, individually or as  
15 one or more systems;

16 (3) for the purpose of acquiring or financing a rail  
17 facility or system, accept a grant or loan from a:

18 (A) department or agency of the United States;

19 (B) department, agency, or political subdivision  
20 of this state; or

21 (C) public or private person;

22 (4) contract with a public or private person to  
23 finance, construct, maintain, or operate a rail facility under this  
24 chapter; or

25 (5) perform any act necessary to the full exercise of  
26 the department's powers under this chapter.

27 Sec. 91.006. RELIANCE ON PRIVATE ENTITIES. The department

1 shall contract with a private entity to operate a railroad using  
2 facilities owned by the department and may not use department  
3 employees to operate a railroad. The department may maintain a  
4 railroad facility directly or through a private entity.

5 Sec. 91.007. COOPERATION OF STATE AGENCIES AND POLITICAL  
6 SUBDIVISIONS. Within available resources, an agency or political  
7 subdivision of this state shall cooperate with and assist the  
8 department in exercising its powers and duties under this chapter.

9 Sec. 91.008. NOTIFICATION OF INTENT TO ABANDON OR  
10 DISCONTINUE SERVICE. On receipt of notice of intent to abandon or  
11 discontinue rail service served under 49 C.F.R. Section 1152.20, as  
12 amended, the department shall coordinate with the governing body of  
13 a municipality, county, or rural rail transportation district in  
14 which all or a segment of the line is located to determine whether:

15 (1) the department should acquire the rail facility to  
16 which the notice relates; or

17 (2) any other actions should be taken to provide for  
18 continued rail transportation service.

19 [Sections 91.009–91.030 reserved for expansion]

20 SUBCHAPTER B. ACQUISITION AND DEVELOPMENT OF RAIL FACILITIES

21 Sec. 91.031. ESTABLISHMENT OF RAIL SYSTEMS. (a) If the  
22 commission determines that the provision of rail transportation  
23 services would be most efficiently and economically met by jointly  
24 operating two or more rail facilities as one operational and  
25 financial enterprise, it may create a system composed of those  
26 facilities.

27 (b) The commission may create more than one system and may

1 combine two or more systems into one system.

2 (c) The department may finance, acquire, construct, and  
3 operate additional rail facilities as additions to and expansions  
4 of the system if the commission determines that the facility would  
5 most efficiently and economically be acquired and constructed if it  
6 were a part of the system and that the addition will benefit the  
7 system.

8 (d) The revenue of a system shall be accounted for  
9 separately and may not be commingled with the revenue of a rail  
10 facility that is not part of the system.

11 Sec. 91.032. ACQUISITION OF RAIL FACILITIES. (a) The  
12 commission may authorize the department to acquire an existing rail  
13 facility at a location and on a route the commission determines to  
14 be feasible and viable for rail transportation service.

15 (b) The department may enter into an agreement with the  
16 owner of an operating railroad for the acquisition or use of a rail  
17 facility on terms the department considers to be in the best  
18 interest of the state.

19 (c) The department may acquire rolling stock or other  
20 personal property under:

21 (1) conditional sales contracts;

22 (2) leases;

23 (3) equipment trust certificates; or

24 (4) any other form of contract or trust agreement.

25 Sec. 91.033. ENVIRONMENTAL REVIEW. (a) The department  
26 shall conduct or approve all environmental evaluations or studies  
27 required for the construction, maintenance, or operation of a rail

1 facility.

2 (b) The commission may adopt rules to allocate  
3 responsibility for conducting an environmental evaluation or study  
4 or preparing environmental documentation among entities involved  
5 in the construction, maintenance, or operation of a rail facility  
6 under this chapter.

7 Sec. 91.034. ENVIRONMENTAL MITIGATION. (a) The department  
8 may acquire, maintain, hold, restore, enhance, develop, or  
9 redevelop property for the purpose of mitigating a past, present,  
10 or future adverse environmental effect arising from the  
11 construction, maintenance, or operation of a rail facility without  
12 regard to whether the need for mitigation has already been  
13 established for a particular project.

14 (b) The department may contract with a governmental or  
15 private entity to maintain, control, hold, restore, enhance,  
16 develop, or redevelop property for the mitigation of a past,  
17 present, or future adverse environmental effect arising from the  
18 construction, maintenance, or operation of a rail facility without  
19 regard to whether the need for mitigation has already been  
20 established for a particular project.

21 (c) If authorized by the applicable regulatory authority,  
22 the department may pay an amount of money to an appropriate  
23 governmental or private entity instead of acquiring or managing  
24 property for the mitigation of a past, present, or future adverse  
25 environmental effect arising from construction, maintenance, or  
26 operation of a rail facility without regard to whether the need for  
27 mitigation has already been established for a particular project.

1       Sec. 91.035. USE OF FACILITIES BELONGING TO PUBLIC OR  
2 PRIVATE ENTITY. The department, for the purpose of acquiring,  
3 constructing, maintaining, and operating freight or passenger rail  
4 facilities and systems in this state, may:

5           (1) use a street, alley, road, highway, or other  
6 public way of a municipality, county, or other political  
7 subdivision with the consent of that political subdivision; and

8           (2) at the expense of the department, relocate, raise,  
9 reroute, or change the grade of the construction of a street, alley,  
10 highway, road, railroad, electric line and facility, telegraph and  
11 telephone property and facility, pipeline and facility, conduit and  
12 facility, and other properties, whether publicly or privately  
13 owned, as necessary or useful in the construction, maintenance, and  
14 operation of a rail facility or system.

15       Sec. 91.036. EXPENDITURE OF FUNDS. The department may  
16 receive, accept, and expend funds from this state, a federal  
17 agency, or other public or private source for:

18           (1) rail planning;

19           (2) studies to determine the viability of a rail  
20 facility for rail transportation service;

21           (3) studies to determine the necessity for the  
22 department's acquisition or construction of a rail facility; and

23           (4) the acquisition, construction, maintenance, or  
24 operation of a rail facility under this chapter, including the  
25 assessment and remediation of environmental contamination existing  
26 in or on a rail facility.

27       [Sections 91.037–91.050 reserved for expansion]

1                   SUBCHAPTER C. CONTRACTS

2           Sec. 91.051. AWARDING OF CONTRACTS. Unless otherwise  
3 provided by this subchapter, a contract made by the department for  
4 the construction, maintenance, or operation of a rail facility must  
5 be let by a competitive bidding procedure in which the contract is  
6 awarded to the lowest responsible bidder that complies with the  
7 department's criteria.

8           Sec. 91.052. AGREEMENTS TO CONSTRUCT, MAINTAIN, AND OPERATE  
9 RAIL FACILITIES. The department may enter into an agreement with a  
10 public entity, including a political subdivision of this state, to  
11 permit the entity, independently or jointly with the department, to  
12 acquire, construct, maintain, or operate a rail facility or system.

13           Sec. 91.053. EXCLUSIVE DEVELOPMENT AGREEMENTS. (a) The  
14 department may enter into an exclusive development agreement with a  
15 private entity to construct, maintain, or operate a rail facility  
16 or system. An exclusive development agreement may provide for:

17                   (1) the lease of rights-of-way, the granting of  
18 easements, or the issuance of franchises, concessions, licences, or  
19 permits that are necessary to enable a private entity to construct,  
20 maintain, or operate a rail facility or system; or

21                   (2) the design, construction, maintenance, and  
22 operation of a rail facility in any combination.

23           (b) The department, when contracting with a private entity  
24 under this section, shall use a competitive procurement process  
25 that provides the best value for the department, including  
26 contracting through the issuance of requests for proposals. The  
27 department shall publish in the request for bids, proposals, or

1 qualifications the criteria that will be used to evaluate the  
2 bidders and the relative weight given to the criteria. The  
3 department may accept unsolicited proposals for proposed projects  
4 provided that the department issues a request for competing  
5 proposals for those proposed projects accepted for further  
6 evaluation. The department may require that a solicited or  
7 unsolicited proposal be accompanied by a nonrefundable fee  
8 sufficient to cover the department's cost to review the proposal.

9 (c) The department has broad discretion to negotiate  
10 provisions in an exclusive development agreement with a private  
11 entity. The provisions may relate to:

12 (1) professional and consulting services to be  
13 rendered in connection with a rail facility or system; and

14 (2) the construction, maintenance, and operation of a  
15 rail facility or system, including provisions for combining those  
16 services.

17 (d) The department may authorize the investment of public  
18 and private money, including debt and equity participation, to  
19 finance a function described by this section.

20 (e) The department shall prescribe the form of an exclusive  
21 development agreement and may include any matter the department  
22 considers advantageous to the state.

23 (f) Section 91.051 does not apply to an agreement entered  
24 into under this section.

25 Sec. 91.054. PAYMENT FOR WORK PRODUCT. (a) The department  
26 may pay an unsuccessful private entity that submits a response to a  
27 request for proposals a stipulated amount of the final contract



1 price for costs incurred in preparing that proposal. The  
2 stipulated amount must be stated in the request for proposals and  
3 may not exceed the value of any work product contained in the  
4 proposal that can, as determined by the department, be used by the  
5 department in the performance of its functions.

6 (b) After payment of the stipulated amount, the department  
7 may make use of any work product contained in the proposal,  
8 including the work product contained in the project design.

9 Sec. 91.055. LIABILITY FOR PRIVATE OBLIGATIONS. The  
10 department may not incur a financial obligation on behalf of, or  
11 otherwise guarantee the obligations of, a private entity that  
12 constructs, maintains, or operates a rail facility or system.

13 Sec. 91.056. INFORMATION RELATED TO PROPOSALS. Until a  
14 final contract is executed with respect to a proposed project, the  
15 following information is confidential, is not subject to  
16 disclosure, inspection, or copying under Chapter 552, Government  
17 Code, and is not subject to disclosure, discovery, subpoena, or  
18 other means of legal compulsion for its release:

19 (1) all or any part of a proposal submitted by a  
20 private entity for a project under an exclusive development  
21 agreement;

22 (2) any supplemental information or materials  
23 submitted by a private entity in connection with a proposal for a  
24 project under an exclusive development agreement; and

25 (3) any information created or collected by the  
26 department or its agents during consideration of a proposal for a  
27 project under an exclusive development agreement.

1       Sec. 91.057. PERFORMANCE AND PAYMENT SECURITY. (a)

2 Notwithstanding the requirements of Subchapter B, Chapter 2253,  
3 Government Code, the department shall require a private entity  
4 entering into an exclusive development agreement under Section  
5 91.053 to provide performance and payment bonds or alternative  
6 forms of security in an amount sufficient to:

7           (1) adequately protect the department and ensure the  
8 proper performance of the agreement; and

9           (2) protect payment bond beneficiaries who have a  
10 direct contractual relationship with the private entity or a  
11 subcontractor of the private entity to supply labor or material.

12       (b) The performance and payment bonds or alternative forms  
13 of security shall be in an amount equal to the cost of constructing  
14 the project unless the department determines that it is  
15 impracticable for the private entity to provide security in that  
16 amount, in which case the department shall set the amount of the  
17 bonds or the alternative forms of security. The amount of the  
18 payment security may not be less than the amount of the performance  
19 security.

20       (c) A payment and performance bond or alternative form of  
21 security is not required for the portion of an agreement that  
22 includes only design or planning services, the performance of  
23 preliminary studies, or the acquisition of real property.

24       (d) In addition to performance and payment bonds, the  
25 department may require the following alternative forms of security:

26           (1) a cashier's check drawn on a financial entity  
27 specified by the department;

- 1           (2) United States bonds or notes;
- 2           (3) an irrevocable bank letter of credit; or
- 3           (4) any other form of security determined suitable by
- 4 the department.

5           (e) The commission by rule shall prescribe requirements for

6 alternative forms of security provided under this section.

7           Sec. 91.058. SMALL AND DISADVANTAGED BUSINESSES. (a) The

8 department shall:

9           (1) set goals for the award of contracts to small and

10 disadvantaged businesses and attempt to meet the goals;

11           (2) attempt to identify small and disadvantaged

12 businesses that provide or have the potential to provide supplies,

13 materials, equipment, or services to the department; and

14           (3) give small and disadvantaged businesses full

15 access to the department's contract bidding process and other

16 contracting processes, inform the businesses about those

17 processes, offer the businesses assistance concerning those

18 processes, and identify barriers to the businesses' participation

19 in those processes.

20           (b) This section does not exempt the department from

21 competitive bidding requirements imposed by other law.

22           [Sections 91.059-91.070 reserved for expansion]

23           SUBCHAPTER D. FINANCING OF RAIL FACILITIES

24           Sec. 91.071. PERMISSIBLE SOURCES OF FUNDING. The

25 department may use any legally permissible source of funding in

26 acquiring, constructing, maintaining, and operating a rail

27 facility or system, including:

1           (1) appropriations from the state highway fund that  
2 are not dedicated under Section 7-a, Article VIII, Texas  
3 Constitution;

4           (2) proceeds from bonds secured by the Texas Mobility  
5 Fund;

6           (3) donations, whether in kind or in cash; and

7           (4) loans from the state infrastructure bank.

8           Sec. 91.072. REVENUE BONDS. (a) The commission may  
9 authorize the issuance of bonds to:

10           (1) pay all or part of the cost of acquiring,  
11 constructing, maintaining, or operating a rail facility or system;  
12 or

13           (2) refund any bonds previously issued for the  
14 facility or system.

15           (b) Chapters 1201, 1202, 1204, 1207, and 1371, Government  
16 Code, apply to bonds issued by the commission. To the extent there  
17 is a conflict between those laws and this chapter, the provisions of  
18 this chapter prevail.

19           Sec. 91.073. PAYMENT OF BONDS. The principal of, interest  
20 on, and any redemption premium on bonds issued by the commission  
21 under this chapter are payable solely from:

22           (1) the revenue of the rail facility or system for  
23 which the bonds are issued, including revenue pledged to pay the  
24 bonds;

25           (2) money received under Section 91.075;

26           (3) money derived from any other source available to  
27 the department under this chapter, other than money derived from a

1 rail facility that is not part of the same system, except that  
2 surplus revenue derived from one rail facility or system may be used  
3 for another; and

4 (4) amounts received under a credit agreement relating  
5 to the rail facility or system for which the bonds are issued.

6 Sec. 91.074. STATE CREDIT NOT PLEDGED. (a) Bonds issued  
7 under this chapter do not constitute a debt of the state or a pledge  
8 of the faith and credit of the state. Each bond must contain on its  
9 face a statement to the effect that the state is not obligated to  
10 pay the bond or the interest on the bond from a source other than the  
11 amount pledged to pay the bond and the interest on the bond, and  
12 neither the faith and credit nor taxing power of the state is  
13 pledged to the payment of the principal of or interest on the bond.

14 (b) The commission and the department may not incur  
15 financial obligations under this chapter that cannot be paid from  
16 revenue derived from owning or operating the department's rail  
17 facilities and systems and from other revenue provided by law.

18 Sec. 91.075. GRANTS AND LOANS. The department may apply  
19 for, accept, and expend money from grants, loans, or reimbursements  
20 for any purpose of this chapter, including paying for the cost of  
21 the acquisition, construction, maintenance, and operation of a rail  
22 facility or system.

23 Sec. 91.076. REVENUE. (a) The department may require a  
24 person, including any public or private entity, to pay a fee as a  
25 condition of using any part of a rail facility or system.

26 (b) The department shall establish and maintain rents or  
27 other compensation for the use of rail facilities or systems in an

1 amount that is, together with other revenue of the department  
2 received under this chapter, sufficient to enable the department to  
3 comply with the requirements of Section 91.073.

4 (c) The department may contract with a person for the use of  
5 all or part of a rail facility or system or may lease or sell all or  
6 part of a rail facility or system, including all or any part of the  
7 right-of-way adjoining trackwork, for any purpose, including  
8 placing on the adjoining right-of-way a storage or transfer  
9 facility, warehouse, garage, parking facility, telecommunication  
10 line or facility, restaurant, or gas station.

11 (d) All revenue received by the department under this  
12 chapter:

13 (1) shall be deposited to the credit of the state  
14 highway fund and may be used for any purpose authorized by this  
15 chapter; and

16 (2) is exempt from the application of Section 403.095,  
17 Government Code.

18 [Sections 91.077-91.090 reserved for expansion]

19 SUBCHAPTER E. ACQUISITION AND DISPOSAL OF PROPERTY

20 Sec. 91.091. ACQUISITION OF REAL PROPERTY. (a) The  
21 commission may authorize the department to acquire in the name of  
22 the state a right-of-way, a property right, or other interest in  
23 real property determined to be necessary or convenient for the  
24 department's acquisition, construction, maintenance, or operation  
25 of rail facilities.

26 (b) The commission may authorize the department to acquire  
27 property by any method, including purchase and condemnation.

1 Property may be purchased under any terms determined by the  
2 department to be in the best interest of the state.

3 (c) Property may be purchased along alternative potential  
4 routes for a rail facility even if only one of those potential  
5 routes will ultimately be chosen as the final route.

6 Sec. 91.092. PROPERTY NECESSARY OR CONVENIENT FOR RAIL  
7 FACILITIES. Property necessary or convenient for the department's  
8 acquisition, construction, maintenance, or operation of rail  
9 facilities includes an interest in real property or a property  
10 right the commission determines is necessary or convenient to  
11 provide:

12 (1) right-of-way for a location for:

13 (A) a rail facility; or

14 (B) the future expansion of a rail facility;

15 (2) land for mitigation of adverse environmental  
16 effects;

17 (3) buffer zones for scenic or safety purposes; and

18 (4) revenue for use in acquiring, constructing,  
19 maintaining, or operating a rail facility or system, including  
20 revenue received under a contract described by Section 91.076(c).

21 Sec. 91.093. RIGHT OF ENTRY. (a) To acquire property  
22 necessary or convenient for a rail facility, the department may  
23 enter any premises or real property, including a body of water, to  
24 make a survey, geotechnical evaluation, sounding, or examination.

25 (b) An entry under Subsection (a) is not:

26 (1) a trespass; or

27 (2) an entry under a pending condemnation procedure.

1       (c) The department shall make reimbursements for actual  
2 damages that result from an entry under Subsection (a).

3       Sec. 91.094. CONVEYANCE OF PROPERTY BELONGING TO POLITICAL  
4 SUBDIVISION OR PUBLIC AGENCY. The governing body of a  
5 municipality, county, political subdivision, or public agency may,  
6 without advertisement, convey the title to or a right in property  
7 determined to be necessary or convenient by the department under  
8 this subchapter.

9       Sec. 91.095. DISPOSAL OF PROPERTY. The department may  
10 sell, convey, or otherwise dispose of any rights or other interests  
11 in real property acquired under this subchapter that the commission  
12 determines are no longer needed for department purposes.

13       [Sections 91.096–91.100 reserved for expansion]

14       SUBCHAPTER F. OPERATION AND USE OF RAIL FACILITIES

15       Sec. 91.101. CONTRACTS FOR RAIL TRANSPORTATION  
16 SERVICES. The department may contract with a county or other  
17 political subdivision of the state for the department to provide  
18 rail transportation services on terms agreed to by the parties.

19       Sec. 91.102. CONTRACTS WITH RAIL OPERATORS. (a) The  
20 department may lease all or part of a rail facility or system to a  
21 rail operator. The department may contract with a rail operator for  
22 the use or operation of all or part of a rail facility or system.

23       (b) The department shall encourage to the maximum extent  
24 practical the participation of private enterprise in the operation  
25 of rail facilities and systems.

26       (c) A lease agreement shall provide for the department's  
27 monitoring of a rail operator's service and performance.



1       (d) The department may enter into an agreement with a rail  
2 operator to sell all or any part of state-owned rail facilities on  
3 terms the department considers to be in the best interest of the  
4 state.

5       Sec. 91.103. JOINT USE OF RAIL FACILITIES. The department  
6 may:

7           (1) enter into an agreement with a rail operator,  
8 public utility, private utility, communication system, common  
9 carrier, or transportation system for the common use of its  
10 facilities, installations, or properties; and

11           (2) establish through routes, joint fares, and,  
12 subject to approval of a tariff-regulating body having  
13 jurisdiction, divisions of tariffs.

14       Sec. 91.104. ROUTINGS. The department may determine  
15 routings for rail facilities acquired, constructed, or operated by  
16 the department under this chapter.

17       Sec. 91.105. PLACEMENT OF UTILITY FACILITIES, LINES, AND  
18 EQUIPMENT. (a) A utility has the same right to place its  
19 facilities, lines, or equipment in, over, or across right-of-way  
20 that is part of a state-owned rail facility as the utility has with  
21 respect to the right-of-way of a state highway under Chapter 181,  
22 Utilities Code. A utility shall notify the department of the  
23 utility's intention to exercise authority over right-of-way that is  
24 part of state-owned rail facilities.

25           (b) On receipt of notice under Subsection (a), the  
26 department may designate the location in the right-of-way where the  
27 utility may place its facilities, lines, or equipment.

1       (c) The department may require a utility to relocate the  
2 utility's facilities, lines, or equipment, at the utility's  
3 expense, to allow for the expansion or relocation of rail  
4 facilities owned by the state. The department shall pay for the  
5 cost of the relocation if the utility acquired an easement or a  
6 leasehold interest in the real property occupied by the facility to  
7 be relocated before the department acquired the right-of-way under  
8 this chapter.

9       (d) A utility may use and operate a facility required to be  
10 relocated under this section at the new location for the same period  
11 and on the same terms as the utility had the right to do at the  
12 previous location of the facility.

13       SECTION 6.03. Section 2, Chapter 1244, Acts of the 77th  
14 Legislature, Regular Session, 2001 (Article 6550c-2, Vernon's  
15 Texas Civil Statutes), is repealed.

16       SECTION 6.04. This article takes effect immediately if this  
17 Act receives a vote of two-thirds of all the members elected to each  
18 house, as provided by Section 39, Article III, Texas Constitution.  
19 If this Act does not receive the vote necessary for immediate  
20 effect, this article takes effect September 1, 2003.

21       ARTICLE 7. DISPOSITION OF DEPARTMENT OF PUBLIC SAFETY FEES

22       SECTION 7.01. Subchapter C, Chapter 521, Transportation  
23 Code, is amended by adding Section 521.058 to read as follows:

24       Sec. 521.058. DISPOSITION OF FEES. Each fee collected  
25 under this subchapter shall be deposited to the credit of the Texas  
26 mobility fund.

27       SECTION 7.02. Section 521.313, Transportation Code, is

1 amended by adding Subsection (c) to read as follows:

2 (c) Each fee collected under this section shall be deposited  
3 to the credit of the Texas mobility fund.

4 SECTION 7.03. Section 521.3466, Transportation Code, is  
5 amended by adding Subsection (e) to read as follows:

6 (e) Each fee collected under this section shall be deposited  
7 to the credit of the Texas mobility fund.

8 SECTION 7.04. Subchapter R, Chapter 521, Transportation  
9 Code, is amended by adding Section 521.427 to read as follows:

10 Sec. 521.427. DISPOSITION OF FEES. (a) Except as provided  
11 by Subsection (b), each fee collected under this subchapter shall  
12 be deposited to the credit of the Texas mobility fund.

13 (b) Subsection (a) does not apply to:

14 (1) the portion of a fee collected under Section  
15 521.421(b) or Section 521.421(f), as added by Chapter 1156, Acts of  
16 the 75th Legislature, Regular Session, 1997, that is required by  
17 Section 662.011 to be deposited to the credit of the motorcycle  
18 education fund account;

19 (2) a fee collected under Section 521.421(f), as added  
20 by Chapter 510, Acts of the 75th Legislature, Regular Session,  
21 1997;

22 (3) a fee collected under Section 521.421(g); or

23 (4) a fee collected under Section 521.422(b) or (c).

24 SECTION 7.05. Section 522.029, Transportation Code, is  
25 amended by adding Subsection (i) to read as follows:

26 (i) Except as provided by Section 662.011, each fee  
27 collected under this section shall be deposited to the credit of the

1 Texas mobility fund.

2 SECTION 7.06. Section 524.051, Transportation Code, is  
3 amended by adding Subsection (c) to read as follows:

4 (c) Each fee collected under this section shall be deposited  
5 to the credit of the Texas mobility fund.

6 SECTION 7.07. Subchapter H, Chapter 548, Transportation  
7 Code, is amended by adding Section 548.508 to read as follows:

8 Sec. 548.508. DISPOSITION OF FEES. Except as provided by  
9 Section 382.0622, Health and Safety Code, and Section 548.5055,  
10 each fee collected by the department under this subchapter shall be  
11 deposited to the credit of the Texas mobility fund.

12 SECTION 7.08. Section 644.153, Transportation Code, is  
13 amended by adding Subsection (i) to read as follows:

14 (i) Each penalty collected under this section shall be  
15 deposited to the credit of the Texas mobility fund.

16 SECTION 7.09. Section 724.046, Transportation Code, is  
17 amended by adding Subsection (c) to read as follows:

18 (c) Each fee collected under this section shall be deposited  
19 to the credit of the Texas mobility fund.

20 SECTION 7.10. Section 521.055(d), Transportation Code, is  
21 repealed.

22 SECTION 7.11. This article applies only to a fee or penalty  
23 collected on or after the effective date of this Act.

24 ARTICLE 8. ISSUANCE OF BONDS AND OTHER PUBLIC SECURITIES

25 SECTION 8.01. Subchapter A, Chapter 222, Transportation  
26 Code, is amended by adding Section 222.003 to read as follows:

27 Sec. 222.003. ISSUANCE OF BONDS SECURED BY STATE HIGHWAY

1 FUND. (a) The commission may issue bonds and other public  
2 securities secured by a pledge of and payable from revenue  
3 deposited to the credit of the state highway fund.

4 (b) The aggregate principal amount of the bonds and other  
5 public securities that are issued may not exceed \$5 billion. The  
6 commission may only issue bonds or other public securities in an  
7 aggregate principal amount of not more than \$1 billion each year.

8 (c) Proceeds from the sale of bonds and other public  
9 securities issued under this section shall be used to fund state  
10 highway improvement projects. Of the aggregate principal amount of  
11 bonds and other public securities that may be issued under this  
12 section, at least 20 percent of the proceeds from the bonds or other  
13 public securities shall be used to fund highway safety improvement  
14 projects that correct or improve hazardous locations on the state  
15 highway system, as determined by the commission.

16 (d) The commission by rule shall prescribe criteria for  
17 selecting highway safety improvement projects eligible for funding  
18 under this section. In establishing these criteria, the commission  
19 shall consider accident data, traffic volume, pavement geometry,  
20 and other conditions that can create or exacerbate hazardous  
21 roadway conditions.

22 (e) The proceeds of bonds and other public securities issued  
23 under this section may not be used for any purpose other than any  
24 costs related to the bonds and other public securities and the  
25 purposes for which revenues are dedicated under Section 7-a,  
26 Article VIII, Texas Constitution. The proceeds of bonds and other  
27 public securities issued under this section may not be used for the

1 construction of a state highway or other facility on the  
2 Trans-Texas Corridor. For purposes of this section, the  
3 "Trans-Texas Corridor" means the statewide system of multimodal  
4 facilities under the jurisdiction of the department that is  
5 designated by the commission, notwithstanding the name given to  
6 that corridor.

7 (f) The commission may enter into bond enhancement  
8 agreements relating to the bonds and other public securities  
9 authorized by this section. The agreements may be secured by and  
10 payable from the same sources as the bonds and other public  
11 securities.

12 (g) All laws affecting the issuance of bonds and other  
13 public securities by governmental entities, including Chapters  
14 1201, 1202, 1204, 1207, 1231, and 1371, Government Code, apply to  
15 the issuing of bonds and other public securities and the entering  
16 into of bond enhancement agreements under this section.

17 (h) The proceeds of bonds and other public securities issued  
18 under this section may be used to:

19 (1) finance other funds relating to the public  
20 security, including debt service reserve and contingency; and

21 (2) pay the cost or expense of the issuance of the  
22 public security.

23 (i) Bonds and other public securities and bond enhancement  
24 agreements authorized by this section may not have a principal  
25 amount or terms that, at the time the bonds or other public  
26 securities are issued or the agreements entered into, are expected  
27 by the commission to cause annual expenditures with respect to the

1 obligations to exceed 10 percent of the amount deposited to the  
2 credit of the state highway fund in the immediately preceding year.

3 (j) Bonds and other public securities issued under this  
4 section may be sold in such manner and subject to such terms and  
5 provisions as set forth in the order authorizing their issuance,  
6 and such bonds and other public securities must mature not later  
7 than 20 years after their dates of issuance, subject to any  
8 refundings or renewals.

9 (k) The comptroller shall withdraw from the state highway  
10 fund and forward at the direction of the commission to another  
11 person the amounts as determined by the commission to permit timely  
12 payment of:

13 (1) the principal of and interest on the bonds and  
14 other public securities that mature or become due; and

15 (2) any cost related to the bonds and other public  
16 securities that become due, including payments under bond  
17 enhancement agreements.

18 SECTION 8.02. This article takes effect on the date on which  
19 the constitutional amendment proposed by the 78th Legislature,  
20 Regular Session, 2003, that authorizes the legislature to provide  
21 for the issuance of bonds and other public securities secured by the  
22 state highway fund for highway improvement projects takes effect.  
23 If that amendment is not approved by the voters, this article has no  
24 effect.

25 ARTICLE 9. SHADOW TOLLS

26 SECTION 9.01. Subchapter E, Chapter 222, Transportation  
27 Code, is amended by adding Section 222.104 to read as follows:

1       Sec. 222.104. SHADOW TOLLS. (a) In this section, "shadow  
2 toll" means a per vehicle fee or a per vehicle mile fee that is  
3 determined by the number of vehicles using a highway.

4       (b) The department may enter into an agreement with a public  
5 or private entity that provides for the payment of shadow tolls to  
6 the public or private entity as reimbursement for the construction,  
7 maintenance, or operation of a toll or nontoll facility on the  
8 state highway system by the public or private entity.

9       (c) The department may enter into an agreement with a public  
10 or private entity that provides for the payment of shadow tolls to  
11 the department as reimbursement for the department's construction,  
12 maintenance, or operation of a toll or nontoll facility on the state  
13 highway system that is financed by the public or private entity.

14       (d) The department may enter into an agreement with a  
15 regional mobility authority, a regional tollway authority, or a  
16 county acting under Chapter 284 that provides for:

17               (1) the payment of shadow tolls to the authority or  
18 county as compensation for the payment of all or a portion of the  
19 costs of maintaining a state highway or a portion of a state highway  
20 converted to a toll facility of the authority or county that the  
21 department estimates it would have incurred if the highway had not  
22 been converted; or

23               (2) the payment by an authority or county of shadow  
24 tolls to the department as reimbursement for all or a portion of the  
25 costs incurred by the department to design, construct, and maintain  
26 a state highway or a portion of a state highway converted to a toll  
27 facility of the authority or county.



1       (e) The department or other public entity may use any  
2 available funds for the purpose of making a shadow toll payment  
3 under this section.

4       (f) The commission may adopt rules necessary to implement  
5 this section. Rules adopted under this subsection may establish  
6 criteria for:

7           (1) determining the amount of shadow tolls to be paid  
8 under this section; and

9           (2) allocating the risk that traffic volume will be  
10 higher or lower than the parties to an agreement under this section  
11 anticipated in entering the agreement.

12       SECTION 9.02. This article takes effect immediately if this  
13 Act receives a vote of two-thirds of all the members elected to each  
14 house, as provided by Section 39, Article III, Texas Constitution.  
15 If this Act does not receive the vote necessary for immediate  
16 effect, this article takes effect September 1, 2003.

17           ARTICLE 10. TEXAS TURNPIKE AUTHORITY

18       SECTION 10.01. Section 201.112(a), Transportation Code, is  
19 amended to read as follows:

20       (a) The commission may by rule establish procedures for the  
21 informal resolution of a claim arising out of a contract described  
22 by:

- 23           (1) Section 22.018;  
24           (2) Chapter 223; ~~or~~  
25           (3) Chapter 361; or  
26           (4) Chapter 2254, Government Code.

27       SECTION 10.02. This article takes effect immediately if

1 this Act receives a vote of two-thirds of all the members elected to  
2 each house, as provided by Section 39, Article III, Texas  
3 Constitution. If this Act does not receive the vote necessary for  
4 immediate effect, this article takes effect September 1, 2003.

5 ARTICLE 11. PROPERTY TRANSFER

6 SECTION 11.01. Section 201.103, Transportation Code, is  
7 amended to read as follows:

8 Sec. 201.103. COMPREHENSIVE SYSTEM OF HIGHWAYS AND ROADS.

9 (a) The commission shall plan and make policies for the location,  
10 construction, and maintenance of a comprehensive system of state  
11 highways and public roads.

12 (b) The commission shall designate as part of the state  
13 highway system a highway that it determines is necessary for the  
14 proper development and operation of the system. The commission may  
15 remove a segment of the state highway system that it determines is  
16 not needed for the system. In planning and making policies, the  
17 commission shall consider, for incorporation into the state highway  
18 system, turnpikes that other governmental or private entities are  
19 authorized to construct.

20 (c) The commission biennially shall submit a report of its  
21 work to the governor and the legislature. The report must include  
22 the recommendations of the commission and of the director.

23 (d) [~~(b)~~] The director, under the direction and with the  
24 approval of the commission, shall prepare a comprehensive plan  
25 providing a system of state highways.

26 SECTION 11.02. Section 202.021, Transportation Code, is  
27 amended to read as follows:

1           Sec. 202.021. REAL PROPERTY NO LONGER NEEDED. (a) The  
2 commission may recommend to the governor the sale or transfer of any  
3 interest in real property, including a highway right-of-way, that:

4           (1) was acquired for a highway purpose; and

5           (2) as determined by the commission, is no longer  
6 needed for a state highway [~~that~~] purpose.

7           (b) Except as provided by Subsection (c), real property  
8 shall be sold to the general public.

9           (c) A highway right-of-way [~~that is sold~~] shall be  
10 transferred or sold with the following priorities:

11           (1) to a governmental entity with the authority to  
12 condemn the property;

13           (2) to abutting or adjoining landowners; or

14           (3) [~~(2)~~] to the general public.

15           (d) [~~(c)~~] The commission shall:

16           (1) determine the fair value of the state's interest in  
17 the real property; and

18           (2) if the value is \$10,000 or more, advise the  
19 governor of the value.

20           (e) The commission may waive payment for real property  
21 transferred to a governmental entity under this section if the  
22 estimated cost of future maintenance on the property equals or  
23 exceeds the fair value of the property.

24           (f) Any revenue [~~(d) Revenue~~] from the sale of property  
25 under this subchapter shall be deposited to the credit of the state  
26 highway fund.

27           (g) [~~(e)~~] The governor may execute a deed conveying the

1 state's interest in the property.

2 (h) If the commission determines that the value of the real  
3 property is less than \$10,000, it may authorize the executive  
4 director to execute a deed conveying the state's interest in the  
5 property without a recommendation to the governor.

6 SECTION 11.03. Section 202.030(a), Transportation Code, is  
7 amended to read as follows:

8 (a) The attorney general must approve a transfer or  
9 conveyance that is made under this subchapter if the value of the  
10 real property transferred or conveyed is \$10,000 or more.

11 SECTION 11.04. Subchapter B, Chapter 202, Transportation  
12 Code, is amended by adding Section 202.033 to read as follows:

13 Sec. 202.033. TRANSFER OF HISTORIC BRIDGE. (a) In this  
14 section, "historic bridge" means a bridge that is included on or  
15 eligible to be included on the National Register of Historic  
16 Places.

17 (b) The department may transfer ownership of a historic  
18 bridge scheduled for replacement to a governmental entity or a  
19 responsible private entity. The entity that accepts ownership of  
20 the bridge:

21 (1) assumes all legal and financial responsibility for  
22 the bridge; and

23 (2) must maintain and preserve the bridge and its  
24 historic features.

25 (c) The following laws do not apply to a transfer under this  
26 section:

27 (1) Chapter 2175, Government Code;

1           (2) Section 202.030(a); and

2           (3) Section 202.031.

3           SECTION 11.05. This article takes effect immediately if  
4 this Act receives a vote of two-thirds of all the members elected to  
5 each house, as provided by Section 39, Article III, Texas  
6 Constitution. If this Act does not receive the vote necessary for  
7 immediate effect, this article takes effect September 1, 2003.

8           ARTICLE 12. MISCELLANEOUS PROVISIONS

9           SECTION 12.01. (a) The tertiary care account under Section  
10 46.003, Health and Safety Code, is re-created as a dedicated  
11 account in the general revenue fund.

12           (b) Subchapter D, Chapter 542, Transportation Code, is  
13 amended by adding Section 542.4031 to read as follows:

14           Sec. 542.4031. ADDITIONAL COURT COST. (a) In addition to  
15 other costs, including a cost under Section 542.403, a person  
16 convicted of an offense under this subtitle shall pay \$30 as a court  
17 cost.

18           (b) The officer who collects a cost under this section shall  
19 send the cost to the comptroller. Of each \$30 court cost received  
20 by the comptroller:

21           (1) \$20 shall be deposited to the credit of the general  
22 revenue fund; and

23           (2) \$10 shall be deposited to the credit of the  
24 tertiary care account under Section 46.003, Health and Safety Code.

25           (c) Article 45.0511, Code of Criminal Procedure, is amended  
26 by adding Subsection (r) to read as follows:

27           (r) In addition to any other fee or special expense imposed

1 on a defendant under this section, the justice shall require the  
2 defendant to pay \$30 as a court cost. The officer who collects the  
3 cost required by this subsection shall send the cost to the  
4 comptroller. Of each \$30 court cost received by the comptroller:

5 (1) \$20 shall be deposited to the credit of the general  
6 revenue fund; and

7 (2) \$10 shall be deposited to the credit of the  
8 tertiary care account under Section 46.003, Health and Safety Code.

9 (d) The change in law made by this section applies only to an  
10 offense committed on or after the effective date of this section.  
11 For the purposes of this section, an offense is committed before the  
12 effective date of this section if any element of the offense occurs  
13 before that date. An offense committed before the effective date of  
14 this section is governed by the law in effect when the offense was  
15 committed, and the former law is continued in effect for that  
16 purpose.

17 ARTICLE 13. GENERAL PROVISIONS; EFFECTIVE DATE

18 SECTION 13.01. Money required to be deposited to a specific  
19 fund or account by a change in law made by this Act is exempt from  
20 Section 403.095, Government Code.

21 SECTION 13.02. Except as otherwise provided by this Act,  
22 this Act takes effect September 1, 2003.