

1-1 By: Smith of Harris, et al. H.B. No. 1892
1-2 (Senate Sponsor - Williams)
1-3 (In the Senate - Received from the House April 12, 2007;
1-4 April 12, 2007, read first time and referred to Committee on
1-5 Transportation and Homeland Security; April 25, 2007, reported
1-6 adversely, with favorable Committee Substitute by the following
1-7 vote: Yeas 9, Nays 0; April 25, 2007, sent to printer.)

1-8 COMMITTEE SUBSTITUTE FOR H.B. No. 1892 By: Williams

1-9 A BILL TO BE ENTITLED
1-10 AN ACT

1-11 relating to the authority of certain counties and other entities
1-12 with respect to certain transportation projects; providing
1-13 penalties.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Subchapter E, Chapter 223, Transportation Code,
1-16 is amended by adding Section 223.210 to read as follows:

1-17 Sec. 223.210. MORATORIUM ON CERTAIN TERMS IN COMPREHENSIVE
1-18 DEVELOPMENT AGREEMENTS OR SALE OF TOLL PROJECTS. (a) In this
1-19 section:

1-20 (1) "Toll project" means a toll project described by
1-21 Section 201.001(b), regardless of whether the toll project:

1-22 (A) is a part of the state highway system; or

1-23 (B) is subject to the jurisdiction of the
1-24 department.

1-25 (2) "Toll project entity" means a public entity
1-26 authorized by law to acquire, design, construct, finance, operate,
1-27 or maintain a toll project, including:

1-28 (A) the department;

1-29 (B) a regional tollway authority;

1-30 (C) a regional mobility authority; or

1-31 (D) a county.

1-32 (b) A comprehensive development agreement entered into with
1-33 a private participant by a toll project entity on or after the
1-34 effective date of this subsection for the acquisition, design,
1-35 construction, financing, operation, or maintenance of a toll
1-36 project may not contain a provision permitting the private
1-37 participant to operate the toll project or collect revenue from the
1-38 toll project, regardless of whether the private participant
1-39 operates the toll project or collects the revenue itself or engages
1-40 a subcontractor or other entity to operate the toll project or
1-41 collect the revenue.

1-42 (c) Subsection (b) does not apply to a comprehensive
1-43 development agreement in connection with:

1-44 (1) a project associated with the highway designated
1-45 as the Trinity Parkway in the City of Dallas; or

1-46 (2) a project:

1-47 (A) that includes one or more managed lane
1-48 facilities to be added to an existing controlled-access highway;

1-49 (B) the major portion of which is located in a
1-50 nonattainment or near nonattainment air quality area as designated
1-51 by the United States Environmental Protection Agency; and

1-52 (C) for which the department has issued a request
1-53 for qualifications before the effective date of this section.

1-54 (c-2) Notwithstanding the TxDOT/NTTA Regional Protocol
1-55 entered into between the Texas Department of Transportation and the
1-56 North Texas Tollway Authority (the authority) and approved on
1-57 August 10, 2006, by the tollway authority and on August 24, 2006, by
1-58 the department, Subsection (b) does not apply to a comprehensive
1-59 development agreement:

1-60 (1) entered into in connection with State Highway 121
1-61 if before the commission or the department enters into a contract
1-62 for the financing, construction, or operation of the project with a
1-63 private participant, an authority under Chapter 366 was granted the

2-1 ability to finance, construct, or operate, as applicable, the
 2-2 portion of the toll project located within the boundaries of the
 2-3 authority, and the authority was granted a period of 90 days from
 2-4 March 26, 2007, to submit a commitment to the metropolitan planning
 2-5 organization which is determined to be equal to or greater than any
 2-6 other commitment submitted prior to March 26, 2007; and

2-7 (a) If the financial value of the commitment is
 2-8 determined to be equal to or greater value than any other commitment
 2-9 submitted prior to March 26, 2007, then the commission shall allow
 2-10 the authority to develop the project; or

2-11 (2) entered into in connection with State Highway 161
 2-12 if before the commission or the department enters into a contract
 2-13 with a private participant for the financing, construction, or
 2-14 operation, an authority under Chapter 366 was granted the ability
 2-15 to finance, construct, or operate, as applicable, the portion of
 2-16 the toll project located within the boundaries of the authority,
 2-17 and the authority was granted a period of 90 days to submit a
 2-18 commitment to the metropolitan planning organization.

2-19 (a) If the authority makes a commitment to proceed,
 2-20 then the department shall allow the authority to proceed and the
 2-21 authority must enter into contracts to finance, construct, or
 2-22 operate the project within 180 days.

2-23 (d) For purposes of Subsection (c)(2), "managed lane
 2-24 facility" means a facility that increases the efficiency of a
 2-25 controlled-access highway through various operational and design
 2-26 actions and that allows lane management operations to be adjusted
 2-27 at any time. The term includes high-occupancy vehicle lanes,
 2-28 single-occupant vehicle express lanes, tolled lanes, priced lanes,
 2-29 truck lanes, bypass lanes, dual use facilities, or any combination
 2-30 of those facilities.

2-31 (e) The department may not enter into a comprehensive
 2-32 development agreement in connection with a project described by
 2-33 Subsection (c)(2) unless the commissioners court of the county in
 2-34 which the majority of the project is located passes a resolution in
 2-35 support of the agreement that states that the commissioners court:

2-36 (1) acknowledges that the comprehensive development
 2-37 agreement may contain penalties for the construction of future
 2-38 competing transportation projects that are acquired or constructed
 2-39 during the term of the comprehensive development agreement; and

2-40 (2) knowing of those potential penalties, agrees that
 2-41 the department should execute the comprehensive development
 2-42 agreement.

2-43 (f) On or after the effective date of this section, a toll
 2-44 project entity may not sell or enter into a contract to sell a toll
 2-45 project of the entity to a private entity.

2-46 (g) A legislative study committee is created. The committee
 2-47 is composed of nine members, appointed as follows:

2-48 (1) three members appointed by the lieutenant
 2-49 governor;

2-50 (2) three members appointed by the speaker of the
 2-51 house of representatives; and

2-52 (3) three members appointed by the governor.

2-53 (h) The legislative study committee shall select a
 2-54 presiding officer from among its members and conduct public
 2-55 hearings and study the public policy implications of including in a
 2-56 comprehensive development agreement entered into by a toll project
 2-57 entity with a private participant in connection with a toll project
 2-58 a provision that permits the private participant to operate and
 2-59 collect revenue from the toll project. In addition, the committee
 2-60 shall examine the public policy implications of selling an existing
 2-61 and operating toll project to a private entity.

2-62 (i) Not later than December 1, 2008, the legislative study
 2-63 committee shall:

2-64 (1) prepare a written report summarizing:

2-65 (A) any hearings conducted by the committee;

2-66 (B) any legislation proposed by the committee;

2-67 (C) the committee's recommendations for
 2-68 safeguards and protections of the public's interest when a contract
 2-69 for the sale of a toll project to a private entity is entered into;

3-1 and

3-2 (D) any other findings or recommendations of the
3-3 committee; and

3-4 (2) deliver a copy of the report to the governor, the
3-5 lieutenant governor, and the speaker of the house of
3-6 representatives.

3-7 (j) On December 31, 2008, the legislative study committee
3-8 created under this section is abolished.

3-9 (k) This section expires September 1, 2009.

3-10 (l) Subsections (b), (c), (d), and (e) do not apply to a
3-11 project that is located in a county with a population of 575,000 or
3-12 more and is adjacent to an international border.

3-13 SECTION 2. Section 228.0055, Transportation Code, is
3-14 amended to read as follows:

3-15 Sec. 228.0055. USE OF CONTRACT PAYMENTS. (a) Payments
3-16 received by the commission or the department under a comprehensive
3-17 development agreement shall [may] be used by the commission or the
3-18 department to finance the construction, maintenance, or operation
3-19 of [a] transportation projects [~~project~~] or air quality projects
3-20 [~~project~~] in the region.

3-21 (b) The commission or the department shall distribute the
3-22 payments received under Subsection (a) among the department
3-23 districts in which the project that is the subject of a
3-24 comprehensive development agreement is located and allocate the
3-25 money to each district based on the percentage of toll revenue from
3-26 users in that district. To assist the commission or the department
3-27 in determining the appropriate allocation of money under this
3-28 subsection, each entity that collects tolls for a project shall
3-29 annually calculate the percentage of toll revenue from users of the
3-30 project in each department district in which the project is located
3-31 based on the number of recorded electronic toll collections.

3-32 (c) The commission or the department may not:

3-33 (1) revise the formula as provided in the department's
3-34 unified transportation program, or its successor document, in a
3-35 manner that results in a decrease of a department district's
3-36 allocation because of a payment under Subsection (a); or

3-37 (2) take any other action that would reduce funding
3-38 allocated to a department district because of payments received
3-39 under a comprehensive development agreement.

3-40 SECTION 3. Subchapter A, Chapter 228, Transportation Code,
3-41 is amended by adding Sections 228.011 and 228.012 to read as
3-42 follows:

3-43 Sec. 228.011. TOLL PROJECTS IN CERTAIN COUNTIES. (a) This
3-44 section applies only to a county acting under Chapter 284.

3-45 (b) The county is the entity that has primary responsibility
3-46 for the financing, construction, and operation of a toll project
3-47 located in the county.

3-48 (c) To the extent authorized by federal law or authorized or
3-49 required by this title, the commission and the department shall
3-50 assist the county in the financing, construction, and operation of
3-51 a toll project in the county by allowing the county to use highway
3-52 right-of-way owned by the department and to access the state
3-53 highway system.

3-54 (d) Subsections (b) and (c) do not limit the authority of
3-55 the commission or the department to participate in the cost of
3-56 acquiring, constructing, maintaining, or operating a turnpike
3-57 project of the county under Chapter 284.

3-58 (e) Before the commission or the department may enter into a
3-59 contract for the financing, construction, or operation of a
3-60 proposed or existing toll project any part of which is located in
3-61 the county, the commission or department shall provide the county
3-62 the first option to finance, construct, or operate, as applicable,
3-63 the portion of the toll project located in the county:

3-64 (1) on terms agreeable to the county, without the
3-65 requirement of any payment to the commission or the department
3-66 except as provided by Section 284.004(a); and

3-67 (2) in a manner determined by the county to be
3-68 consistent with the practices and procedures by which the county
3-69 finances, constructs, or operates a project.

4-1 (f) A county's right to exercise the first option under
 4-2 Subsection (e) is effective for six months following the date of
 4-3 receipt by the county of written notification from the commission
 4-4 or the department meeting the requirements of Subsection (e) and
 4-5 describing in reasonable detail the location of the toll project, a
 4-6 projected cost estimate, sources and uses of funds, and a
 4-7 construction schedule. If a county exercises the first option with
 4-8 respect to a toll project, the county must enter into one or more
 4-9 contracts for the financing, construction, or operation of the toll
 4-10 project within 18 months of the date of exercising the option. A
 4-11 contract may include agreements for design of the project,
 4-12 acquisition of right-of-way, and utility relocation. If the county
 4-13 does not enter into a contract within the 18-month period, the
 4-14 commission or the department may enter into a contract for the
 4-15 financing, construction, or operation of the toll project with a
 4-16 different entity.

4-17 (g) Except as provided by Section 284.004(a), an agreement
 4-18 entered into by the county and the commission or the department in
 4-19 connection with a project under Chapter 284 that is financed,
 4-20 constructed, or operated by the county and that is on or directly
 4-21 connected to the state highway system may not require the county to
 4-22 make any payments to the commission or the department.

4-23 (h) An agreement entered into by the county and the
 4-24 commission or department in connection with a project under Chapter
 4-25 284 that is financed, constructed, or operated by the county and
 4-26 that is on or directly connected to a highway in the state highway
 4-27 system does not create a joint enterprise for liability purposes.

4-28 Sec. 228.012. TOLL PROJECTS WITHIN BOUNDARIES OF REGIONAL
 4-29 MOBILITY AUTHORITIES. (a) This section applies only to a toll
 4-30 project located within the boundaries of a regional mobility
 4-31 authority operating under Chapter 370.

4-32 (b) The regional mobility authority is the entity that has
 4-33 primary responsibility for the financing, construction, and
 4-34 operation of a toll project located within the boundaries of the
 4-35 authority.

4-36 (c) To the extent authorized by federal law or authorized or
 4-37 required by this title, the commission and the department shall
 4-38 assist the authority in the financing, construction, and operation
 4-39 of a toll project located within the boundaries of the authority by
 4-40 allowing the authority to use highway right-of-way owned by the
 4-41 department and to access the state highway system. In connection
 4-42 with the use by the authority of improved state highway
 4-43 right-of-way, the authority must enter into an agreement with the
 4-44 commission or the department as provided in this chapter.

4-45 (d) Subsections (b) and (c) do not limit the authority of
 4-46 the commission or the department to participate in the cost of
 4-47 acquiring, constructing, maintaining, or operating a turnpike
 4-48 project of the authority under Chapter 370.

4-49 (e) Before the commission or the department may enter into a
 4-50 contract for the financing, construction, or operation of a
 4-51 proposed or existing toll project any part of which is located
 4-52 within the boundaries of an authority, the commission or department
 4-53 shall provide the authority the first option to finance, construct,
 4-54 or operate, as applicable, the portion of the toll project located
 4-55 within the boundaries of the authority:

4-56 (1) on terms agreeable to the authority, without the
 4-57 requirement of any payment to the commission or the department
 4-58 except to reimburse the commission or department for actual costs
 4-59 incurred or to be incurred by a third party, including the federal
 4-60 government, as a result of that use by the authority; and

4-61 (2) in a manner determined by the authority to be
 4-62 consistent with the practices and procedures by which the authority
 4-63 finances, constructs, or operates a project.

4-64 (f) An agreement entered into by the authority and the
 4-65 commission or the department in connection with a project under
 4-66 Chapter 370 that is financed, constructed, or operated by the
 4-67 authority and that is on or directly connected to the state highway
 4-68 system may not require the authority to make any payments to the
 4-69 commission or the department, provided that the authority and the

5-1 department or the commission may enter into an agreement which
 5-2 provides for the repayment of all or a portion of funds advanced by
 5-3 the department or the commission to the authority for the specific
 5-4 purpose of assisting the authority in the development or
 5-5 construction of the project.

5-6 (g) An agreement entered into by the authority and the
 5-7 commission or department in connection with a project under Chapter
 5-8 370 that is financed, constructed, or operated by the authority and
 5-9 that is on or directly connected to a highway in the state highway
 5-10 system does not create a joint enterprise for liability purposes.

5-11 (h) Once the authority or metropolitan planning
 5-12 organization has received notice from the department relating to a
 5-13 toll project, the authority has 180 days to provide the department
 5-14 with written notice of the authority's decision to exercise the
 5-15 first option to finance, construct, or operate, as applicable, the
 5-16 toll project. Written notice from the department shall describe in
 5-17 reasonable detail the location of the toll project, a projected
 5-18 cost estimate, sources and uses of funds, and a construction
 5-19 schedule. In the event the authority does not initiate work within
 5-20 18 months of exercising its option to develop the project, the
 5-21 metropolitan planning organization at its discretion may allow the
 5-22 department to finance, construct, or operate the project.

5-23 SECTION 4. Section 284.001(3), Transportation Code, is
 5-24 amended to read as follows:

5-25 (3) "Project" means:

5-26 (A) a causeway, bridge, tunnel, turnpike,
 5-27 highway, ferry, or any combination of those facilities, including:

5-28 (i) ~~[(A)]~~ a necessary overpass, underpass,
 5-29 interchange, entrance plaza, toll house, service station,
 5-30 approach, fixture, and accessory and necessary equipment that has
 5-31 been designated as part of the project by order of a county;

5-32 (ii) ~~[(B)]~~ necessary administration,
 5-33 storage, and other buildings that have been designated as part of
 5-34 the project by order of a county; and

5-35 (iii) ~~[(C)]~~ all property rights,
 5-36 easements, and related interests acquired; or

5-37 (B) a turnpike project or system, as those terms
 5-38 are defined by Section 370.003.

5-39 SECTION 5. Section 284.003, Transportation Code, is amended
 5-40 to read as follows:

5-41 Sec. 284.003. PROJECT AUTHORIZED; CONSTRUCTION, OPERATION,
 5-42 AND COST. (a) A county, acting through the commissioners court of
 5-43 the county, or a local government corporation, without state
 5-44 approval, supervision, or regulation, may:

5-45 (1) construct, acquire, improve, operate, maintain,
 5-46 or pool a project located:

5-47 (A) exclusively in the county;

5-48 (B) in the county and outside the county; or

5-49 (C) in one or more counties adjacent to the
 5-50 county;

5-51 (2) issue tax bonds, revenue bonds, or combination tax
 5-52 and revenue bonds to pay the cost of the construction, acquisition,
 5-53 or improvement of a project;

5-54 (3) impose tolls or charges as otherwise authorized by
 5-55 this chapter;

5-56 (4) construct a bridge over a deepwater ~~[deep water]~~
 5-57 navigation channel, if the bridge does not hinder maritime
 5-58 transportation; ~~[or]~~

5-59 (5) construct, acquire, or operate a ferry across a
 5-60 deepwater navigation channel;

5-61 (6) in connection with a project, on adoption of an
 5-62 order exercise the powers of a regional mobility authority
 5-63 operating under Chapter 370; or

5-64 (7) enter into a comprehensive development agreement
 5-65 with a private entity to design, develop, finance, construct,
 5-66 maintain, repair, operate, extend, or expand a proposed or existing
 5-67 project in the county to the extent and in the manner applicable to
 5-68 the department under Chapter 223 or to a regional tollway authority
 5-69 under Chapter 366.

6-1 (b) The county or a local government corporation may
 6-2 exercise a power provided by Subsection (a)(6) only in a manner
 6-3 consistent with the other powers provided by this chapter. To the
 6-4 extent of a conflict between this chapter and Chapter 370, this
 6-5 chapter prevails.

6-6 (c) A project or any portion of a project that is owned by
 6-7 the county and licensed or leased to a private entity or operated by
 6-8 a private entity under this chapter to provide transportation
 6-9 services to the general public is public property used for a public
 6-10 purpose and exempt from taxation by this state or a political
 6-11 subdivision of this state.

6-12 (d) If the county constructs, acquires, improves, operates,
 6-13 maintains, or pools a project under this chapter, before December
 6-14 31 of each even-numbered year the county shall submit to the
 6-15 department a plan for the project that includes the time schedule
 6-16 for the project and describes the use of project funds. The plan
 6-17 may provide for and permit the use of project funds and other money,
 6-18 including state or federal funds, available to the county for
 6-19 roads, streets, highways, and other related facilities in the
 6-20 county that are not part of a project under this chapter. A plan is
 6-21 not subject to approval, supervision, or regulation by the
 6-22 commission or the department.

6-23 (e) Except as provided by federal law, an action of a county
 6-24 taken under this chapter is not subject to approval, supervision,
 6-25 or regulation by a metropolitan planning organization.

6-26 (f) The county may enter into a protocol or other agreement
 6-27 with the commission or the department to implement this section
 6-28 through the cooperation of the parties to the agreement.

6-29 SECTION 6. Subchapter A, Chapter 284, Transportation Code,
 6-30 is amended by adding Sections 284.0031 and 284.0032 and amending
 6-31 Section 284.004 to read as follows:

6-32 Sec. 284.0031. OTHER ROAD, STREET, OR HIGHWAY PROJECTS.

6-33 (a) The commissioners court of a county or a local government
 6-34 corporation, without state approval, supervision, or regulation
 6-35 may:

6-36 (1) authorize the use or pledge of surplus revenue to
 6-37 pay or finance the costs of a project for the study, design,
 6-38 construction, maintenance, repair, or operation of roads, streets,
 6-39 highways, or other related facilities that are not part of a project
 6-40 under this chapter; and

6-41 (2) prescribe terms for the use of the surplus
 6-42 revenue, including the manner in which revenue from a project
 6-43 becomes surplus revenue and the manner in which the roads, streets,
 6-44 highways, or other related facilities are to be studied, designed,
 6-45 constructed, maintained, repaired, or operated.

6-46 (b) To implement this section, a county may enter into an
 6-47 agreement with the commission, the department, a local governmental
 6-48 entity, or another political subdivision of this state.

6-49 (c) A county may not take an action under this section that
 6-50 violates or impairs a bond resolution, trust agreement, or
 6-51 indenture that governs the use of the revenue of a project.

6-52 (d) Except as provided by this section, a county has the
 6-53 same powers, including the powers to finance and to encumber
 6-54 surplus revenue, and may use the same procedures with respect to the
 6-55 study, financing, design, construction, maintenance, repair, or
 6-56 operation of a road, street, highway, or other related facility
 6-57 under this section as are available to the county with respect to a
 6-58 project under this chapter.

6-59 Sec. 284.0032. TRANS-TEXAS CORRIDOR PROJECTS. If a county
 6-60 requests or is requested by the commission to participate in the
 6-61 development of a project under this chapter that has been
 6-62 designated as part of the Trans-Texas Corridor, in connection with
 6-63 the project and in addition to the other powers granted by this
 6-64 chapter, the county has all the powers of the department related to
 6-65 the development of a project that has been designated as part of the
 6-66 Trans-Texas Corridor.

6-67 Sec. 284.004. USE OF COUNTY PROPERTY AND STATE HIGHWAY
 6-68 ALIGNMENT, RIGHT-OF-WAY, AND ACCESS. (a) Notwithstanding any
 6-69 other law, under this chapter a county may use any county property,

7-1 state highway right-of-way, or access to the state highway system
7-2 ~~[for a project under this chapter]~~, regardless of when or how the
7-3 property, right-of-way, or access is acquired. The department or
7-4 the commission may require the county to comply with any covenant,
7-5 condition, restriction, or limitation that affects state highway
7-6 right-of-way, but may not:

7-7 (1) adopt rules or establish policies that have the
7-8 effect of denying the county the use of the right-of-way or access
7-9 that the county has determined to be necessary or convenient for the
7-10 construction, acquisition, improvement, operation, maintenance, or
7-11 pooling of a project under this chapter or the implementation of a
7-12 plan under Section 284.003(d); or

7-13 (2) require the county to pay for the use of the
7-14 right-of-way or access, except to reimburse the commission or
7-15 department for actual costs incurred or to be incurred by a third
7-16 party, including the federal government, as a result of that use by
7-17 the county.

7-18 (b) If a project of the county under this chapter includes
7-19 the proposed use of improved state highway right-of-way, the county
7-20 and the commission or the department must enter into an agreement
7-21 that includes reasonable terms to accommodate that use of the
7-22 right-of-way by the county and to protect the interests of the
7-23 commission and the department in the use of the right-of-way for
7-24 operations of the department, including public safety and
7-25 congestion mitigation on the improved right-of-way.

7-26 (c) Notwithstanding any other law, the commission and the
7-27 department are not liable for any damages that result from a
7-28 county's use of state highway right-of-way or access to the state
7-29 highway system under this chapter, regardless of the legal theory,
7-30 statute, or cause of action under which liability is asserted.

7-31 SECTION 7. Sections 284.008(c) and (d), Transportation
7-32 Code, are amended to read as follows:

7-33 (c) Except as provided by Subsection (d), a project becomes
7-34 a part of the state highway system and the commission shall maintain
7-35 the project without tolls when:

7-36 (1) all of the bonds and interest on the bonds that are
7-37 payable from or secured by revenues of the project have been paid by
7-38 the issuer of the bonds or another person with the consent or
7-39 approval of the issuer; or

7-40 (2) a sufficient amount for the payment of all bonds
7-41 and the interest on the bonds to maturity has been set aside by the
7-42 issuer of the bonds or another person with the consent or approval
7-43 of the issuer in a trust fund held for the benefit of the
7-44 bondholders.

7-45 (d) A ~~[Before construction on a project under this chapter~~
7-46 ~~begins, a]~~ county may request that the commission adopt an order
7-47 stating that a ~~[the]~~ project will not become part of the state
7-48 highway system under Subsection (c). If the commission adopts the
7-49 order:

7-50 (1) Section 362.051 does not apply to the project;

7-51 (2) the project must be maintained by the county; and

7-52 (3) the project will not become part of the state
7-53 highway system unless the county transfers the project under
7-54 Section 284.011.

7-55 SECTION 8. Sections 284.065(b) and (c), Transportation
7-56 Code, are amended to read as follows:

7-57 (b) An existing project may be pooled in whole or in part
7-58 with a new project or another existing project.

7-59 (c) A project may ~~[not]~~ be pooled more than once.

7-60 SECTION 9. Section 366.003, Transportation Code, is amended
7-61 by adding Subdivision (9-a) to read as follows:

7-62 (9-a) "Surplus revenue" means the revenue of a
7-63 turnpike project or system remaining at the end of any fiscal year
7-64 after all required payments and deposits have been made in
7-65 accordance with all bond resolutions, trust agreements,
7-66 indentures, credit agreements, or other instruments and
7-67 contractual obligations of the authority payable from the revenue
7-68 of the turnpike project or system.

7-69 SECTION 10. Chapter 366, Transportation Code, is amended by

8-1 adding Subchapter H to read as follows:

8-2 SUBCHAPTER H. COMPREHENSIVE DEVELOPMENT AGREEMENTS

8-3 Sec. 366.401. COMPREHENSIVE DEVELOPMENT AGREEMENTS.

8-4 (a) An authority may use a comprehensive development agreement
8-5 with a private entity to design, develop, finance, construct,
8-6 maintain, repair, operate, extend, or expand a turnpike project.

8-7 (b) A comprehensive development agreement is an agreement
8-8 with a private entity that, at a minimum, provides for the design,
8-9 construction, rehabilitation, expansion, or improvement of a
8-10 turnpike project and may also provide for the financing,
8-11 acquisition, maintenance, or operation of a turnpike project.

8-12 (c) An authority may negotiate provisions relating to
8-13 professional and consulting services provided in connection with a
8-14 comprehensive development agreement.

8-15 (d) An authority may authorize the investment of public and
8-16 private money, including debt and equity participation, to finance
8-17 a function described by this section.

8-18 Sec. 366.402. PROCESS FOR ENTERING INTO COMPREHENSIVE

8-19 DEVELOPMENT AGREEMENTS. (a) If an authority enters into a
8-20 comprehensive development agreement, the authority shall use a
8-21 competitive procurement process that provides the best value for
8-22 the authority. An authority may accept unsolicited proposals for a
8-23 proposed turnpike project or solicit proposals in accordance with
8-24 this section.

8-25 (b) An authority shall establish rules and procedures for
8-26 accepting unsolicited proposals that require the private entity to
8-27 include in the proposal:

8-28 (1) information regarding the proposed project
8-29 location, scope, and limits;

8-30 (2) information regarding the private entity's
8-31 qualifications, experience, technical competence, and capability
8-32 to develop the project; and

8-33 (3) any other information the authority considers
8-34 relevant or necessary.

8-35 (c) An authority shall publish a notice advertising a
8-36 request for competing proposals and qualifications in the Texas
8-37 Register that includes the criteria to be used to evaluate the
8-38 proposals, the relative weight given to the criteria, and a
8-39 deadline by which proposals must be received if:

8-40 (1) the authority decides to issue a request for
8-41 qualifications for a proposed project; or

8-42 (2) the authority authorizes the further evaluation of
8-43 an unsolicited proposal.

8-44 (d) A proposal submitted in response to a request published
8-45 under Subsection (c) must contain, at a minimum, the information
8-46 required by Subsections (b)(2) and (3).

8-47 (e) An authority may interview a private entity submitting
8-48 an unsolicited proposal or responding to a request under Subsection
8-49 (c). The authority shall evaluate each proposal based on the
8-50 criteria described in the request for competing proposals and
8-51 qualifications and may qualify or shortlist private entities to
8-52 submit detailed proposals under Subsection (f). The authority must
8-53 qualify or shortlist at least two private entities to submit
8-54 detailed proposals for a project under Subsection (f) unless the
8-55 authority does not receive more than one proposal or one response to
8-56 a request under Subsection (c).

8-57 (f) An authority shall issue a request for detailed
8-58 proposals from all private entities qualified or shortlisted under
8-59 Subsection (e) if the authority proceeds with the further
8-60 evaluation of a proposed project. A request under this subsection
8-61 may require additional information the authority considers
8-62 relevant or necessary, including information relating to:

8-63 (1) the private entity's qualifications and
8-64 demonstrated technical competence;

8-65 (2) the feasibility of developing the project as
8-66 proposed;

8-67 (3) engineering or architectural designs;

8-68 (4) the private entity's ability to meet schedules; or

8-69 (5) a financial plan, including costing methodology

9-1 and cost proposals.

9-2 (g) In issuing a request for proposals under Subsection (f),
 9-3 an authority may solicit input from entities qualified under
 9-4 Subsection (e) or any other person. An authority may also solicit
 9-5 input regarding alternative technical concepts after issuing a
 9-6 request under Subsection (f).

9-7 (h) An authority shall evaluate each proposal based on the
 9-8 criteria described in the request for detailed proposals and select
 9-9 the private entity whose proposal offers the apparent best value to
 9-10 the authority.

9-11 (i) An authority may enter into negotiations with the
 9-12 private entity whose proposal offers the apparent best value.

9-13 (j) If at any point in negotiations under Subsection (i), it
 9-14 appears to the authority that the highest ranking proposal will not
 9-15 provide the authority with the overall best value, the authority
 9-16 may enter into negotiations with the private entity submitting the
 9-17 next-highest-ranking proposal.

9-18 (k) An authority may withdraw a request for competing
 9-19 proposals and qualifications or a request for detailed proposals at
 9-20 any time. The authority may then publish a new request for
 9-21 competing proposals and qualifications.

9-22 (l) An authority may require that an unsolicited proposal be
 9-23 accompanied by a nonrefundable fee sufficient to cover all or part
 9-24 of its cost to review the proposal.

9-25 (m) An authority may pay an unsuccessful private entity that
 9-26 submits a responsive proposal in response to a request for detailed
 9-27 proposals under Subsection (f) a stipulated amount in exchange for
 9-28 the work product contained in that proposal. A stipulated amount
 9-29 must be stated in the request for proposals and may not exceed the
 9-30 value of any work product contained in the proposal that can, as
 9-31 determined by the authority, be used by the authority in the
 9-32 performance of its functions. The use by the authority of any
 9-33 design element contained in an unsuccessful proposal is at the sole
 9-34 risk and discretion of the authority and does not confer liability
 9-35 on the recipient of the stipulated amount under this subsection.
 9-36 After payment of the stipulated amount:

9-37 (1) the authority, with the unsuccessful private
 9-38 entity, jointly owns the rights to, and may make use of any work
 9-39 product contained in, the proposal, including the technologies,
 9-40 techniques, methods, processes, ideas, and information contained
 9-41 in the project design; and

9-42 (2) the use by the unsuccessful private entity of any
 9-43 portion of the work product contained in the proposal is at the sole
 9-44 risk of the unsuccessful private entity and does not confer
 9-45 liability on the authority.

9-46 (n) An authority may prescribe the general form of a
 9-47 comprehensive development agreement and may include any matter the
 9-48 authority considers advantageous to the authority. The authority
 9-49 and the private entity shall finalize the specific terms of a
 9-50 comprehensive development agreement.

9-51 (o) Section 366.185 and Subchapter A, Chapter 223, of this
 9-52 code and Chapter 2254, Government Code, do not apply to a
 9-53 comprehensive development agreement entered into under this
 9-54 subchapter.

9-55 Sec. 366.403. CONFIDENTIALITY OF INFORMATION. (a) To
 9-56 encourage private entities to submit proposals under this
 9-57 subchapter, the following information is confidential, is not
 9-58 subject to disclosure, inspection, or copying under Chapter 552,
 9-59 Government Code, and is not subject to disclosure, discovery,
 9-60 subpoena, or other means of legal compulsion for its release until a
 9-61 final contract for a proposed project is entered into:

9-62 (1) all or part of a proposal that is submitted by a
 9-63 private entity for a comprehensive development agreement, except
 9-64 information provided under Sections 366.402(b)(1) and (2), unless
 9-65 the private entity consents to the disclosure of the information;

9-66 (2) supplemental information or material submitted by
 9-67 a private entity in connection with a proposal for a comprehensive
 9-68 development agreement unless the private entity consents to the
 9-69 disclosure of the information or material; and

10-1 (3) information created or collected by an authority
 10-2 or its agent during consideration of a proposal for a comprehensive
 10-3 development agreement or during the authority's preparation of a
 10-4 proposal to the department relating to a comprehensive development
 10-5 agreement.

10-6 (b) After an authority completes its final ranking of
 10-7 proposals under Section 366.402(h), the final rankings of each
 10-8 proposal under each of the published criteria are not confidential.

10-9 Sec. 366.404. PERFORMANCE AND PAYMENT SECURITY.

10-10 (a) Notwithstanding the requirements of Subchapter B, Chapter
 10-11 2253, Government Code, an authority shall require a private entity
 10-12 entering into a comprehensive development agreement under this
 10-13 subchapter to provide a performance and payment bond or an
 10-14 alternative form of security in an amount sufficient to:

10-15 (1) ensure the proper performance of the agreement;
 10-16 and

10-17 (2) protect:

10-18 (A) the authority; and

10-19 (B) payment bond beneficiaries who have a direct
 10-20 contractual relationship with the private entity or a subcontractor
 10-21 of the private entity to supply labor or material.

10-22 (b) A performance and payment bond or alternative form of
 10-23 security shall be in an amount equal to the cost of constructing or
 10-24 maintaining the project.

10-25 (c) If an authority determines that it is impracticable for
 10-26 a private entity to provide security in the amount described by
 10-27 Subsection (b), the authority shall set the amount of the bonds or
 10-28 the alternative forms of security.

10-29 (d) A payment or performance bond or alternative form of
 10-30 security is not required for the portion of an agreement that
 10-31 includes only design or planning services, the performance of
 10-32 preliminary studies, or the acquisition of real property.

10-33 (e) The amount of the payment security must not be less than
 10-34 the amount of the performance security.

10-35 (f) In addition to, or instead of, performance and payment
 10-36 bonds, an authority may require the following alternative forms of
 10-37 security:

10-38 (1) a cashier's check drawn on a financial entity
 10-39 specified by the authority;

10-40 (2) a United States bond or note;

10-41 (3) an irrevocable bank letter of credit; or

10-42 (4) any other form of security determined suitable by
 10-43 the authority.

10-44 (g) An authority by rule shall prescribe requirements for
 10-45 alternative forms of security provided under this section.

10-46 Sec. 366.405. OWNERSHIP OF TURNPIKE PROJECTS. (a) A
 10-47 turnpike project that is the subject of a comprehensive development
 10-48 agreement with a private entity, including the facilities acquired
 10-49 or constructed on the project, is public property and is owned by
 10-50 the authority.

10-51 (b) Notwithstanding Subsection (a), an authority may enter
 10-52 into an agreement that provides for the lease of rights-of-way, the
 10-53 granting of easements, the issuance of franchises, licenses, or
 10-54 permits, or any lawful uses to enable a private entity to construct,
 10-55 operate, and maintain a turnpike project, including supplemental
 10-56 facilities. At the termination of the agreement, the turnpike
 10-57 project, including the facilities, are to be in a state of proper
 10-58 maintenance as determined by the authority and shall be returned to
 10-59 the authority in satisfactory condition at no further cost.

10-60 Sec. 366.406. LIABILITY FOR PRIVATE OBLIGATIONS. An
 10-61 authority may not incur a financial obligation for a private entity
 10-62 that designs, develops, finances, constructs, operates, or
 10-63 maintains a turnpike project. The authority or a political
 10-64 subdivision of the state is not liable for any financial or other
 10-65 obligation of a turnpike project solely because a private entity
 10-66 constructs, finances, or operates any part of the project.

10-67 Sec. 366.407. TERMS OF PRIVATE PARTICIPATION. (a) An
 10-68 authority shall negotiate the terms of private participation in a
 10-69 turnpike project under this subchapter, including:

11-1 (1) methods to determine the applicable cost, profit,
 11-2 and project distribution among the private participants and the
 11-3 authority;

11-4 (2) reasonable methods to determine and classify toll
 11-5 rates and the responsibility for setting toll rates;

11-6 (3) acceptable safety and policing standards; and

11-7 (4) other applicable professional, consulting,
 11-8 construction, operation, and maintenance standards, expenses, and
 11-9 costs.

11-10 (b) A comprehensive development agreement entered into
 11-11 under this subchapter may include any provision the authority
 11-12 considers appropriate, including a provision:

11-13 (1) providing for the purchase by the authority, under
 11-14 terms and conditions agreed to by the parties, of the interest of a
 11-15 private participant in the comprehensive development agreement and
 11-16 related property, including any interest in a turnpike project
 11-17 designed, developed, financed, constructed, operated, or
 11-18 maintained under the comprehensive development agreement;

11-19 (2) establishing the purchase price, as determined in
 11-20 accordance with the methodology established by the parties in the
 11-21 comprehensive development agreement, for the interest of a private
 11-22 participant in the comprehensive development agreement and related
 11-23 property;

11-24 (3) providing for the payment of an obligation
 11-25 incurred under the comprehensive development agreement, including
 11-26 an obligation to pay the purchase price for the interest of a
 11-27 private participant in the comprehensive development agreement,
 11-28 from any available source, including securing the obligation by a
 11-29 pledge of revenues of the authority derived from the applicable
 11-30 project, which pledge shall have priority as established by the
 11-31 authority;

11-32 (4) permitting the private participant to pledge its
 11-33 rights under the comprehensive development agreement;

11-34 (5) concerning the private participant's right to
 11-35 operate and collect revenue from the turnpike project; and

11-36 (6) restricting the right of the authority to
 11-37 terminate the private participant's right to operate and collect
 11-38 revenue from the turnpike project unless and until any applicable
 11-39 termination payments have been made.

11-40 (c) An authority may enter into a comprehensive development
 11-41 agreement under this subchapter with a private participant only if
 11-42 the project is identified in the department's unified
 11-43 transportation program or is located on a transportation corridor
 11-44 identified in the statewide transportation plan.

11-45 (d) Section 366.406 does not apply to an obligation of an
 11-46 authority under a comprehensive development agreement, nor is an
 11-47 authority otherwise constrained from issuing bonds or other
 11-48 financial obligations for a turnpike project payable solely from
 11-49 revenues of that turnpike project or from amounts received under a
 11-50 comprehensive development agreement.

11-51 (e) Notwithstanding any other law, and subject to
 11-52 compliance with the dispute resolution procedures set out in the
 11-53 comprehensive development agreement, an obligation of an authority
 11-54 under a comprehensive development agreement entered into under this
 11-55 subchapter to make or secure payments to a person because of the
 11-56 termination of the agreement, including the purchase of the
 11-57 interest of a private participant or other investor in a project,
 11-58 may be enforced by mandamus against the authority in a district
 11-59 court of any county of the authority, and the sovereign immunity of
 11-60 the authority is waived for that purpose. The district courts of
 11-61 any county of the authority shall have exclusive jurisdiction and
 11-62 venue over and to determine and adjudicate all issues necessary to
 11-63 adjudicate any action brought under this subsection. The remedy
 11-64 provided by this subsection is in addition to any legal and
 11-65 equitable remedies that may be available to a party to a
 11-66 comprehensive development agreement.

11-67 (f) If an authority enters into a comprehensive development
 11-68 agreement with a private participant that includes the collection
 11-69 by the private participant of tolls for the use of a toll project,

12-1 the private participant shall submit to the authority for approval:

12-2 (1) the methodology for:

12-3 (A) the setting of tolls; and

12-4 (B) increasing the amount of the tolls;

12-5 (2) a plan outlining methods the private participant
12-6 will use to collect the tolls, including:

12-7 (A) any charge to be imposed as a penalty for late
12-8 payment of a toll; and

12-9 (B) any charge to be imposed to recover the cost
12-10 of collecting a delinquent toll; and

12-11 (3) any proposed change in an approved methodology for
12-12 the setting of a toll or a plan for collecting the toll.

12-13 (g) Except as provided by this section, a comprehensive
12-14 development agreement with a private participant that includes the
12-15 collection by the private participant of tolls for the use of a toll
12-16 project may be for a term not longer than 30 years.

12-17 Sec. 366.408. RULES, PROCEDURES, AND GUIDELINES GOVERNING
12-18 SELECTION AND NEGOTIATING PROCESS. (a) To promote fairness,
12-19 obtain private participants in turnpike projects, and promote
12-20 confidence among those participants, an authority shall adopt
12-21 rules, procedures, and other guidelines governing selection of
12-22 private participants for comprehensive development agreements and
12-23 negotiations of comprehensive development agreements. The rules
12-24 must contain criteria relating to the qualifications of the
12-25 participants and the award of the contracts.

12-26 (b) An authority shall have up-to-date procedures for
12-27 participation in negotiations under this subchapter.

12-28 (c) An authority has exclusive judgment to determine the
12-29 terms of an agreement.

12-30 Sec. 366.409. USE OF CONTRACT PAYMENTS. (a) Payments
12-31 received by an authority under a comprehensive development
12-32 agreement shall be used by the authority to finance the
12-33 construction, maintenance, or operation of a turnpike project or a
12-34 highway.

12-35 (b) The authority shall allocate the distribution of funds
12-36 received under Subsection (a) to the counties of the authority
12-37 based on the percentage of toll revenue from users, from each
12-38 county, of the project that is the subject of the comprehensive
12-39 development agreement. To assist the authority in determining the
12-40 allocation, each entity responsible for collecting tolls for a
12-41 project shall calculate on an annual basis the percentage of toll
12-42 revenue from users of the project from each county within the
12-43 authority based on the number of recorded electronic toll
12-44 collections.

12-45 SECTION 11. Subsection (f), Section 366.033,
12-46 Transportation Code, is amended to read as follows:

12-47 (f) An authority may rent, lease, franchise, license, or
12-48 otherwise make portions of any property of the authority, including
12-49 tangible or intangible property, [~~its properties~~] available for use
12-50 by others in furtherance of its powers under this chapter by
12-51 increasing:

12-52 (1) the feasibility or efficient operation [~~the~~
12-53 revenue] of a turnpike project or system; or

12-54 (2) the revenue of the authority.

12-55 SECTION 12. Subchapter B, Chapter 366, Transportation Code,
12-56 is amended by adding Sections 366.037 and 366.038 to read as
12-57 follows:

12-58 Sec. 366.037. OTHER HIGHWAY PROJECTS. (a) In addition to
12-59 the powers granted under this chapter and without supervision or
12-60 regulation by any state agency or local governmental entity, but
12-61 subject to an agreement entered into under Subsection (c), the
12-62 board of an authority may by resolution, and on making the findings
12-63 set forth in this subsection, authorize the use of surplus revenue
12-64 of a turnpike project or system for the study, design,
12-65 construction, maintenance, repair, and operation of a highway or
12-66 similar facility that is not a turnpike project if the highway or
12-67 similar facility is:

12-68 (1) situated in a county in which the authority is
12-69 authorized to design, construct, and operate a turnpike project;

13-1 (2) anticipated to either:

13-2 (A) enhance the operation or revenue of an
 13-3 existing, or the feasibility of a proposed, turnpike project by
 13-4 bringing traffic to that turnpike project or enhancing the flow of
 13-5 traffic either on that turnpike project or to or from that turnpike
 13-6 project to another facility; or

13-7 (B) ameliorate the impact of an existing or
 13-8 proposed turnpike project by enhancing the capability of another
 13-9 facility to handle traffic traveling, or anticipated to travel, to
 13-10 or from that turnpike project; and

13-11 (3) not anticipated to result in an overall reduction
 13-12 of revenue of any turnpike project or system.

13-13 (b) The board in the resolution may prescribe terms for the
 13-14 use of the surplus revenue, including the manner in which the
 13-15 highway or related facility shall be studied, designed,
 13-16 constructed, maintained, repaired, or operated.

13-17 (c) An authority shall enter into an agreement to implement
 13-18 this section with the department, the commission, a local
 13-19 governmental entity, or another political subdivision that owns a
 13-20 street, road, alley, or highway that is directly affected by the
 13-21 authority's turnpike project or related facility.

13-22 (d) An authority may not:

13-23 (1) take an action under this section that violates,
 13-24 impairs, or is inconsistent with a bond resolution, trust
 13-25 agreement, or indenture governing the use of the revenue of a
 13-26 turnpike project or system; or

13-27 (2) commit in any fiscal year expenditures under this
 13-28 section exceeding 10 percent of its surplus revenue from the
 13-29 preceding fiscal year.

13-30 (e) In authorizing expenditures under this section, the
 13-31 board shall consider:

13-32 (1) balancing throughout the counties of the authority
 13-33 the application of funds generated by its turnpike projects and
 13-34 systems, taking into account where those amounts are already
 13-35 committed or programmed as a result of this section or otherwise;
 13-36 and

13-37 (2) connectivity to an existing or proposed turnpike
 13-38 project or system.

13-39 (f) Except as provided by this section, an authority has the
 13-40 same powers and may use the same procedures with respect to the
 13-41 study, financing, design, construction, maintenance, repair, and
 13-42 operation of a highway or similar facility under this section as are
 13-43 available to the authority with respect to a turnpike project or
 13-44 system.

13-45 Sec. 366.038. TOLL PROJECTS IN TERRITORY OF LOCAL OR
 13-46 REGIONAL TOLL PROJECT ENTITY. (a) In this section, "local toll
 13-47 project entity" means a regional tollway authority under this
 13-48 chapter.

13-49 (b) For each toll project located within the boundaries of a
 13-50 local toll project entity, after completion of the market valuation
 13-51 the policy board of the metropolitan planning organization shall
 13-52 notify the local toll project entity by mail that the entity has the
 13-53 first option to develop, finance, construct, and operate the
 13-54 project. The toll project entity must decide whether to exercise
 13-55 the option before the 90th day after the date the notice sent under
 13-56 this subsection is received by the local toll project entity.

13-57 (c) If the local toll project entity does not exercise the
 13-58 option to develop, finance, construct, and operate a toll project
 13-59 under Subsection (b), the metropolitan planning organization shall
 13-60 allow the department to develop, finance, construct, and operate
 13-61 the project.

13-62 (d) If the department determines that a toll project offered
 13-63 to the department under Subsection (c) should be developed,
 13-64 financed, constructed, and operated under a comprehensive
 13-65 development agreement, a request for proposal shall include the
 13-66 terms and conditions approved by the policy board of the
 13-67 metropolitan planning organization.

13-68 (e) If a local toll project entity does not exercise the
 13-69 right to first option under Subsection (b) and after five years

14-1 after the date of the notice under Subsection (b) the commission or
 14-2 the department has not issued a request for proposal or taken any
 14-3 other action to begin the toll project, before taking such an action
 14-4 the commission or the department shall provide the toll project
 14-5 entity the right to first option under Subsection (b).

14-6 (f) A local toll project entity shall provide customer
 14-7 service and other toll collection and enforcement services for a
 14-8 toll project, regardless of whether the toll project is developed,
 14-9 financed, constructed, and operated under a comprehensive
 14-10 development agreement or an agreement with the toll project entity.

14-11 (g) For the purposes of this section, a notice is considered
 14-12 received on the third business day after the date that the notice is
 14-13 mailed.

14-14 SECTION 13. The heading to Section 366.185, Transportation
 14-15 Code, is amended to read as follows:

14-16 Sec. 366.185. ENGINEERING, DESIGN, AND CONSTRUCTION
 14-17 SERVICES [~~COMPETITIVE BIDDING~~].

14-18 SECTION 14. Section 366.185, Transportation Code, is
 14-19 amended by amending Subsection (a) and adding Subsections (c)
 14-20 through (f) to read as follows:

14-21 (a) A contract made by an authority that requires the
 14-22 expenditures of public funds for the construction or maintenance of
 14-23 a turnpike project may [~~must~~] be let by a competitive bidding
 14-24 procedure in which the contract is awarded to the lowest
 14-25 responsible bidder that complies with the authority's criteria.

14-26 (c) An authority may procure a combination of engineering,
 14-27 design, and construction services in a single procurement for a
 14-28 turnpike project, provided that any contract awarded results in the
 14-29 best value to the authority.

14-30 (d) The authority shall adopt rules governing the award of
 14-31 contracts for engineering, design, construction, and maintenance
 14-32 services in a single procurement.

14-33 (e) Notwithstanding any other provision of state law, an
 14-34 authority may let a contract for the design and construction of a
 14-35 turnpike project by a construction manager-at-risk procedure under
 14-36 which the construction manager-at-risk provides consultation to
 14-37 the authority during the design of the turnpike project and is
 14-38 responsible for construction of the turnpike project in accordance
 14-39 with the authority's specifications. A construction
 14-40 manager-at-risk shall be selected on the basis of criteria
 14-41 established by the authority, which may include the construction
 14-42 manager-at-risk's experience, past performance, safety record,
 14-43 proposed personnel and methodology, proposed fees, and other
 14-44 appropriate factors that demonstrate the construction
 14-45 manager-at-risk's ability to provide the best value to the
 14-46 authority and to deliver the required services in accordance with
 14-47 the authority's specifications.

14-48 (f) The authority shall adopt rules governing the award of
 14-49 contracts using construction manager-at-risk procedures under this
 14-50 section.

14-51 SECTION 15. Subchapter F, Chapter 366, Transportation Code,
 14-52 is amended by adding Sections 366.2521 and 366.2522 to read as
 14-53 follows:

14-54 Sec. 366.2521. GIFTS AND CONTRIBUTIONS; OFFENSE. (a) In
 14-55 this section, "benefit" means anything reasonably regarded as
 14-56 pecuniary gain or pecuniary advantage, including benefit to any
 14-57 other person in whose welfare the beneficiary has a direct and
 14-58 substantial interest.

14-59 (b) A director commits an offense if the person solicits,
 14-60 accepts, or agrees to accept any benefit from:

14-61 (1) a person the director knows to be subject to
 14-62 regulation, inspection, or investigation by the authority; or

14-63 (2) a person the director knows is interested in or
 14-64 likely to become interested in any contract, purchase, payment,
 14-65 claim, transaction, or matter involving the exercise of the
 14-66 director's discretion.

14-67 (c) A director who receives an unsolicited benefit that the
 14-68 director is prohibited from accepting under this section may donate
 14-69 the benefit to a governmental entity that has the authority to

15-1 accept the gift or may donate the benefit to a recognized tax-exempt
15-2 charitable organization formed for educational, religious, or
15-3 scientific purposes.

15-4 (d) This section does not apply to:
15-5 (1) a fee prescribed by law to be received by a
15-6 director;
15-7 (2) a benefit to which the director is lawfully
15-8 entitled; or
15-9 (3) a benefit for which the director gives legitimate
15-10 consideration in a capacity other than as a director.

15-11 (e) An offense under this section is a Class A misdemeanor.
15-12 (f) If conduct that constitutes an offense under this
15-13 section also constitutes an offense under Section 36.08, Penal
15-14 Code, the actor may be prosecuted under this section or Section
15-15 36.08.

15-16 Sec. 366.2522. OFFERING GIFT TO A DIRECTOR; OFFENSE. (a) A
15-17 person commits an offense if the person offers, confers, or agrees
15-18 to confer any benefit on a director that the person knows the
15-19 director is prohibited from accepting under Section 366.2521.

15-20 (b) An offense under this section is a Class A misdemeanor.
15-21 (c) If conduct that constitutes an offense under this
15-22 section also constitutes an offense under Section 36.09, Penal
15-23 Code, the actor may be prosecuted under this section or Section
15-24 36.09.

15-25 SECTION 16. Subchapter F, Chapter 366, Transportation Code,
15-26 is amended by adding Section 366.2575 to read as follows:
15-27 Sec. 366.2575. BOARD VOTE ON COUNTY REQUEST. The
15-28 commissioners court of a county of an authority may request the
15-29 board of the authority to vote on whether to build a project that
15-30 the county requests.

15-31 SECTION 17. Subchapter G, Chapter 366, Transportation Code,
15-32 is amended by adding Section 366.305 to read as follows:
15-33 Sec. 366.305. TRANS-TEXAS CORRIDOR PROJECTS. If an
15-34 authority is requested by the commission to participate in the
15-35 development of a turnpike project that has been designated as part
15-36 of the Trans-Texas Corridor, the authority shall have, in addition
15-37 to all powers granted in this chapter, all powers of the department
15-38 related to the development of Trans-Texas Corridor projects.

15-39 SECTION 18. This Act takes effect immediately if it
15-40 receives a vote of two-thirds of all the members elected to each
15-41 house, as provided by Section 39, Article III, Texas Constitution.
15-42 If this Act does not receive the vote necessary for immediate
15-43 effect, this Act takes effect September 1, 2007.

15-44 * * * * *