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No equivalent provision.

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

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

Section 223.201(f), Transportation Code does not apply to a comprehensive development agreement in connection with a project that:

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

(b) the major portion of which is located in a nonattainment or near nonattainment air quality area as designed by the United States Environmental Protection Agency; and

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

No equivalent provision.

SECTION __. (a) Section 223.203, Transportation Code, is amended by adding subsections (f-1), (f-2), and (f-3) to read as follows:

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

(f-2) Subsection (f-1) does not apply to a comprehensive development agreement in connection with a project: (1)

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that includes one or more managed lane facilities to be added to an existing controlled-access highway; (2) the major portion of which is located in a nonattainment or near-nonattainment air quality area as designated by the United States Environmental Protection Agency; and (3) for which the department has issued a request for qualifications before the effective date of this section.
(f-3) Notwithstanding the TxDOT/NTTA Regional Protocol entered into between the department and the North Texas Tollway Authority (the authority) and approved on August 10, 2006, by the tollway authority and on August 24, 2006, by the department, Subsection (f-1) does not apply to a comprehensive development agreement: (1) entered into in connection with State Highway 121 if, before the commission or the department enters into a contract for the financing, construction, or operation of the project with a private participant, an authority under Chapter 366 was granted the ability to finance, construct, or operate, as applicable, the portion of the toll project located within the boundaries of the authority, and the authority was granted a period of 60 days from March 26, 2007, to submit a commitment to the metropolitan planning organization which is determined to be equal to or greater than any other commitment submitted prior to March 26, 2007; if the financial value of the commitment is determined to be equal to or greater value than any other commitment submitted prior to March 26, 2007, then the commission shall allow the authority to develop

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the project; or (2) entered into in connection with State Highway 161 if, before the commission or the department enters into a contract with a private participant for the financing, construction, or operation, an authority under Chapter 366 was granted the ability to finance, construct, or operate, as applicable, the portion of the toll project located within the boundaries of the authority, and the authority was granted a period of 90 days to submit a commitment to the metropolitan planning organization; if the authority makes a commitment to proceed, then the department shall allow the authority to proceed and the authority must enter into contracts to finance, construct, or operate the project within 180 days.

(b) Section 223.208, Transportation Code, is amended by amending Subsection (h) and adding subsections (i) and (i-2) to read as follows:

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

~~[(1) contains]~~ an explicit mechanism for setting the price for the purchase by the department of the interest of the private participant in the comprehensive development agreement and related property, including any interest in a highway or other facility designed, developed,

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financed, constructed, operated, or maintained under the agreement[; ~~and~~

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

(i) A comprehensive development agreement with a private participant that includes the collection by the private participant of tolls for the use of a toll project may be for a term not longer than 50 years for a comprehensive development agreement in connection with a project: (1) that includes one or more managed lane facilities to be added to an existing controlled-access highway; (2) the major portion of which is located in a nonattainment or near-nonattainment air quality area as designated by the United States Environmental Protection Agency; and (3) for which the department has issued a request for qualifications before the effective date of this section.

(i-2) Notwithstanding the TxDOT/NTTA Regional Protocol entered into between the department and the North Texas Tollway Authority (the authority) and approved on August 10, 2006, by the tollway authority and on August 24, 2006, by the department, Subsection (i) applies to a comprehensive development agreement: (1) entered into in connection with State Highway 121 if, before the commission or the department enters into a contract for the financing, construction, or operation of the project with a private participant, an authority under Chapter 366 was granted the ability to finance, construct, or operate, as applicable, the portion of the toll project

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located within the boundaries of the authority, and the authority was granted a period of 60 days from March 26, 2007, to submit a commitment to the metropolitan planning organization which is determined to be equal to or greater than any other commitment submitted prior to March 26, 2007; if the financial value of the commitment is determined to be equal to or greater value than any other commitment submitted prior to March 26, 2007, then the commission shall allow the authority to develop the project; or (2) entered into in connection with State Highway 161 if, before the commission or the department enters into a contract with a private participant for the financing, construction, or operation, an authority under Chapter 366 was granted the ability to finance, construct, or operate, as applicable, the portion of the toll project located within the boundaries of the authority, and the authority was granted a period of 90 days to submit a commitment to the metropolitan planning organization; if the authority makes a commitment to proceed, then the department shall allow the authority to proceed and the authority must enter into contracts to finance, construct, or operate the project within 180 days.

(c) Section 227.023(f), Transportation Code, is amended to read as follows:

(f) A contract with a private entity that includes the collection by the private entity of a fee for the use of a facility may not be for a term longer than 40 ~~50~~ years. The contract must contain an explicit mechanism for

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setting the price for the purchase by the department of the interest of the private participant in the contract and related property, including any interest in a highway or other facility designed, developed, financed, constructed, operated, or maintained under the contract.

(d) Section 370.302(i), Transportation Code, is amended to read as follows:

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

(e) The changes in law made by this section apply only to a contract entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect when the contract was entered into, and the former law is continued in effect for that purpose.

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

(m) The department may [shall] pay an unsuccessful private entity that submits a responsive proposal in response to a request for detailed proposals under

No equivalent provision.

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Subsection (f) a stipulated amount in exchange for the work product contained in that proposal. A ~~The~~ stipulated amount must be stated in the request for proposals and may not exceed the value of any work product contained in the proposal that can, as determined by the department, be used by the department in the performance of its functions. The use by the department of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the department and does not confer liability on the recipient of the stipulated amount under this section. After payment of the stipulated amount:

- (1) the department owns with the unsuccessful proposer jointly the rights to, and may make use of any work product contained in, the proposal, including the technologies, techniques, methods, processes, ideas, and information contained in the project design; and
- (2) the use by the unsuccessful proposer of any portion of the work product contained in the proposal is at the sole risk of the unsuccessful proposer and does not confer liability on the department.

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

Sec. 223.210. MORATORIUM ON CERTAIN TERMS IN COMPREHENSIVE DEVELOPMENT AGREEMENTS OR SALE OF TOLL PROJECTS. (a)

In this section:

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

Sec. 223.210. MORATORIUM ON CERTAIN TERMS IN COMPREHENSIVE DEVELOPMENT AGREEMENTS OR SALE OF TOLL PROJECTS. (a)

In this section:

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

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

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

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

(A) the department;

(B) a regional tollway authority;

(C) a regional mobility authority; or

(D) a county.

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

(c) On or after the effective date of this subsection, a toll project entity may not sell or enter into a contract to sell a toll project of the entity to a private entity.

(c-1) Subsections (b) and (c) do not apply to any project within the boundaries of a regional tollway authority created on September 1, 1997.

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

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

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

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

(A) the department;

(B) a regional tollway authority;

(C) a regional mobility authority; or

(D) a county.

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

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(c-2) To the extent that Subsection (c-1) conflicts with Section 228.012, Section 228.012 shall govern.

(c-3) This section does not apply to a comprehensive development agreement for a managed lane facility toll project the major portion of which is located inside the boundaries of a regional tollway authority created on September 1, 1997, and for which the department has issued a request for qualifications before the effective date of this subsection. Before the department executes a final contract for a project described by this subsection, the commissioners court for any county in which a majority of the project is located must pass a supporting resolution that:

(1) acknowledges that the contract may contain penalties for the construction of future competing transportation projects built at any time during the life of the agreement; and

(2) states that the commissioners court is aware of and agrees to pay the penalties if any are rendered.

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

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

(2) a project:

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

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

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

(c-1) Subsection (b) does not apply to a comprehensive development agreement in connection with a project associated with any portion of the Loop 9 project that is located in a nonattainment air quality area as designated by the United States Environmental Protection Agency that includes two adjacent counties that each have a population of one million or more.

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

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(1) entered into in connection with State Highway 121 if before the commission or the department enters into a contract for the financing, construction, or operation of the project with a private participant, an authority under Chapter 366 was granted the ability to finance, construct, or operate, as applicable, the portion of the toll project located within the boundaries of the authority, and the authority was granted a period of 60 days from March 26, 2007, to submit a commitment to the metropolitan planning organization which is determined to be equal to or greater than any other commitment submitted prior to March 26, 2007; and

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

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

(a) If the authority makes a commitment to proceed, then the department shall allow the authority to proceed and the authority must enter into contracts to finance,

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construct, or operate the project within 180 days.

(c-3) Subsection (c) does not apply to any toll project or managed lane facility project located on any portion of U.S. Highway 281 that is located in a county with a population of more than one million in which more than 80 percent of the population lives in a single municipality.

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

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

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

(2) knowing of those potential penalties, agrees that the department should execute the comprehensive

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

- (1) three members appointed by the lieutenant governor;
- (2) three members appointed by the speaker of the house of representatives; and
- (3) three members appointed by the governor.

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

(f) Not later than December 1, 2008, the legislative study committee shall:

- (1) prepare a written report summarizing:
 - (A) any hearings conducted by the committee;
 - (B) any legislation proposed by the committee;
 - (C) the committee's recommendations for safeguards and protections of the public's interest when a contract for the sale of a toll project to a private entity is entered

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development agreement.

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

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

- (1) three members appointed by the lieutenant governor;
- (2) three members appointed by the speaker of the house of representatives; and
- (3) three members appointed by the governor.

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

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

- (1) prepare a written report summarizing:
 - (A) any hearings conducted by the committee;
 - (B) any legislation proposed by the committee;
 - (C) the committee's recommendations for safeguards and protections of the public's interest when a contract for the sale of a toll project to a private entity is entered

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into; and
(D) any other findings or recommendations of the committee; and
(2) deliver a copy of the report to the governor, the lieutenant governor, and the speaker of the house of representatives.
(g) On December 31, 2008, the legislative study committee created under this section is abolished.
(h) This section expires September 1, 2009.

No equivalent provision.

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into; and
(D) any other findings or recommendations of the committee; and
(2) deliver a copy of the report to the governor, the lieutenant governor, and the speaker of the house of representatives.
(j) On December 31, 2008, the legislative study committee created under this section is abolished.
(k) This section expires September 1, 2009.
(l) Subsections (b), (c), (d), and (e) do not apply to a project that is located in a county with a population of 575,000 or more and is adjacent to an international border.

SECTION __. Subchapter A, Chapter 227, Transportation Code, is amended by adding Sections 227.005, 227.006, 227.007, and 227.008 to read as follows:

Sec. 227.005. PUBLIC ACCESS TO INFORMATION.

(a) The department shall:

(1) seek to achieve transparency in the department's functions related to the Trans-Texas Corridor by providing, to the greatest extent possible under the public information law (Chapter 552, Government Code) and other statutes governing the access to records, public access to information collected, assembled, or maintained by the department relating to the Trans-Texas Corridor;

(2) make public in a timely manner all documents,

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plans, and contracts related to the Trans-Texas Corridor;
and

(3) make public in a timely manner all updates to the master development plan for the Trans-Texas Corridor, including financial plans.

(b) The department shall send electronic versions of all updates to the master development plan for the Trans-Texas Corridor to the Governor's Office of Budget and Planning, the Senate Finance Committee, the House Appropriations Committee, the Legislative Budget Board, the state auditor's office, and the comptroller in a timely manner.

Sec. 227.006. POSTING INFORMATION RELATING TO TRANS-TEXAS CORRIDOR ON DEPARTMENT'S WEBSITE. (a) The department shall post on the department's Internet website, in a timely manner, the costs incurred by the department in connection with the financing, design, construction, maintenance, or operation of the Trans-Texas Corridor.

(b) Not later than the 10th day after the date the department enters into a contract relating to the Trans-Texas Corridor, the department shall post a copy of the contract on the department's Internet website.

SECTION 2. Section 228.0055, Transportation Code, is amended to read as follows:

Sec. 228.0055. USE OF CONTRACT PAYMENTS. (a) Payments received by the commission or the department

SECTION 2. Section 228.0055, Transportation Code, is amended to read as follows:

Sec. 228.0055. USE OF CONTRACT PAYMENTS. (a) Payments received by the commission or the department

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under a comprehensive development agreement shall ~~may~~ be used by the commission or the department to finance the construction, maintenance, or operation of a transportation project or air quality project in the same department district as the project or facilities to which the payments are attributable or a department district adjacent to that district ~~region~~.

(b) The commission or the department may not:

- (1) revise the formula as provided in the department's unified transportation program, or its successor document, in a manner that results in a decrease of a department district's allocation because of a payment under Subsection (a); or
- (2) take any other action that would reduce funding allocated to a department district because of payments received under a comprehensive development agreement.

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under a comprehensive development agreement shall ~~may~~ be used by the commission or the department to finance the construction, maintenance, or operation of [~~a~~] transportation projects ~~project~~ or air quality projects ~~project~~ in the region.

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

(c) The commission or the department may not:

- (1) revise the formula as provided in the department's unified transportation program, or its successor document, in a manner that results in a decrease of a department district's allocation because of a payment under Subsection (a); or
- (2) take any other action that would reduce funding allocated to a department district because of payments received under a comprehensive development agreement.

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SECTION 3. Subchapter A, Chapter 228, Transportation Code, is amended by adding Section 228.011 to read as follows:

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

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

(c) To the extent authorized by federal law or authorized or required by this title, the commission and the department shall assist the county in the financing, construction, and operation of a toll project in the county by allowing the county to use highway right-of-way owned by the department and to access the state highway system. In connection with the use by the county of improved state highway right-of-way, the county must enter into an agreement with the commission or the department as provided by Section 284.004(b).

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

(e) Before the commission or the department may enter into a contract for the financing, construction, or operation of a proposed or existing toll project any part of which is located in the county, the commission or

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

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

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

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

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

(e) Before the commission or the department may enter into a contract for the financing, construction, or operation of a proposed or existing toll project any part of which is located in the county, the commission or

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department shall provide the county the first option to finance, construct, or operate, as applicable, the portion of the toll project located in the county:

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

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

(f) Except as provided by Section 284.004(a), an

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department shall provide the county the first option to finance, construct, or operate, as applicable, the portion of the toll project located in the county:

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

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

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

(g) Except as provided by Section 284.004(a), an

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agreement entered into by the county and the commission or the department in connection with a project under Chapter 284 that is financed, constructed, or operated by the county and that is on or directly connected to the state highway system may not require the county to make any payments to the commission or the department.

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

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agreement entered into by the county and the commission or the department in connection with a project under Chapter 284 that is financed, constructed, or operated by the county and that is on or directly connected to the state highway system may not require the county to make any payments to the commission or the department.

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

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

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

(c) To the extent authorized by federal law or authorized or required by this title, the commission and the department shall assist the authority in the financing, construction, and operation of a toll project located within the boundaries of the authority by allowing the authority to use highway right-of-way owned by the department and to access the state highway system. In

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connection with the use by the authority of improved state highway right-of-way, the authority must enter into an agreement with the commission or the department as provided in this chapter.

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

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

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

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

(f) An agreement entered into by the authority and the commission or the department in connection with a project under Chapter 370 that is financed, constructed, or operated by the authority and that is on or directly

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connected to the state highway system may not require the authority to make any payments to the commission or the department, provided that the authority and the department or the commission may enter into an agreement which provides for the repayment of all or a portion of funds advanced by the department or the commission to the authority for the specific purpose of assisting the authority in the development or construction of the project.

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

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

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SECTION 4. Subchapter A, Chapter 228, Transportation Code, is amended by adding Section 228.012 to read as follows:

Sec. 228.012. TOLL PROJECTS WITHIN BOUNDARIES OF REGIONAL TOLLWAY AUTHORITY. (a) This section applies only to a toll project located within the boundaries of a regional tollway authority under Chapter 366.

(b) The tollway authority is the entity that has primary responsibility for the financing, construction, and operation of a toll project located within the boundaries of the authority.

(c) To the extent authorized by federal law or authorized or required by this title, the commission and the department shall assist the tollway authority in the financing, construction, and operation of a toll project located within the boundaries of the authority by allowing the authority to use highway right-of-way owned by the department and to access the state highway system.

(d) Subsections (b) and (c) do not limit the authority of the commission or the department to participate in the cost of acquiring, constructing, maintaining, or operating a turnpike project of the tollway authority under Chapter 366.

(e) Before the commission or the department may enter into a contract for the financing, construction, or

No equivalent provision.

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operation of a proposed or existing toll project any part of which is located within the boundaries of a tollway authority, the commission or department shall provide the authority the first option to finance, construct, or operate, as applicable, the portion of the toll project located within the boundaries of the authority:

(1) on terms agreeable to the authority, without the requirement of any payment to the commission or the department; and

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

(f) An agreement entered into by the tollway authority and the commission or the department in connection with a project under Chapter 366 that is financed, constructed, or operated by the authority and that is on or directly connected to the state highway system may not require the authority to make any payments to the commission or the department.

(g) An agreement entered into by the tollway authority and the commission or department in connection with a project under Chapter 366 that is financed, constructed, or operated by the authority and that is on or directly connected to a highway in the state highway system does not create a joint enterprise for liability purposes.

(h) Before a final contract execution by the department for any comprehensive development agreement project, the commissioners court for any county in which a majority of the project is located must pass a supporting

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resolution.

(i) Once the authority or regional transportation council has received notice from the department relating to a toll project, the authority has 90 days to exercise the first option to finance, construct, or operate, as applicable, the toll project.

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

(3) "Project" means:

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

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

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

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

(B) a turnpike project or system as those terms are defined by Section 370.003.

SECTION 4. Substantially the same as House version.

SECTION 6. Section 284.002, Transportation Code, is amended to read as follows:

No equivalent provision.

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Sec. 284.002. ~~APPLICABILITY OF CHAPTER [TO CERTAIN COUNTIES AND LOCAL GOVERNMENT CORPORATIONS]~~. (a) Except as provided by Subsection (b), this chapter applies only to a county that[
[~~(1)~~] has a population of 10,000 [~~50,000~~] or more [~~and borders the Gulf of Mexico or a bay or inlet opening into the gulf;~~
[~~(2)~~ has a population of 1.5 million or more;
[~~(3)~~ is adjacent to a county that has a population of 1.5 million or more; or
[~~(4)~~ borders the United Mexican States].
(b) A local government corporation created under Chapter 431 in a county to which this chapter applies has the same powers as a county acting under this chapter, except as provided by Chapter 362.

SECTION 7. Section 284.003, Transportation Code, is amended to read as follows:
Sec. 284.003. PROJECT AUTHORIZED; CONSTRUCTION, OPERATION, AND COST. (a) A county, acting through the commissioners court of the county, or a local government corporation, without state approval, supervision, or regulation, may:
(1) construct, acquire, improve, operate, maintain, or pool a project located:
(A) exclusively in the county;
(B) in the county and outside the county; or

SECTION 5. Section 284.003, Transportation Code, is amended to read as follows:
Sec. 284.003. PROJECT AUTHORIZED; CONSTRUCTION, OPERATION, AND COST. (a) A county, acting through the commissioners court of the county, or a local government corporation, without state approval, supervision, or regulation, may:
(1) construct, acquire, improve, operate, maintain, or pool a project located:
(A) exclusively in the county;
(B) in the county and outside the county; or

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- (C) in one or more counties adjacent to the county;
- (2) issue tax bonds, revenue bonds, or combination tax and revenue bonds to pay the cost of the construction, acquisition, or improvement of a project;
- (3) impose tolls or charges as otherwise authorized by this chapter;
- (4) construct a bridge over a deepwater [~~deep water~~] navigation channel, if the bridge does not hinder maritime transportation; [øø]
- (5) construct, acquire, or operate a ferry across a deepwater navigation channel;
- (6) in connection with a project, on adoption of an order exercise the powers of a regional mobility authority operating under Chapter 370; or
- (7) enter into a comprehensive development agreement with a private entity to design, develop, finance, construct, maintain, repair, operate, extend, or expand a proposed or existing project in the county to the extent and in the manner applicable to the department under Chapter 223 or to a regional tollway authority under Chapter 366.
- (b) The county or a local government corporation may exercise a power provided by Subsection (a)(6) only in a manner consistent with the other powers provided by this chapter. To the extent of a conflict between this chapter and Chapter 370, this chapter prevails.
- (c) A project or any portion of a project that is owned by the county and licensed or leased to a private entity or operated by a private entity under this chapter to provide

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- (C) in one or more counties adjacent to the county;
- (2) issue tax bonds, revenue bonds, or combination tax and revenue bonds to pay the cost of the construction, acquisition, or improvement of a project;
- (3) impose tolls or charges as otherwise authorized by this chapter;
- (4) construct a bridge over a deepwater [~~deep water~~] navigation channel, if the bridge does not hinder maritime transportation; [øø]
- (5) construct, acquire, or operate a ferry across a deepwater navigation channel;
- (6) in connection with a project, on adoption of an order exercise the powers of a regional mobility authority operating under Chapter 370; or
- (7) enter into a comprehensive development agreement with a private entity to design, develop, finance, construct, maintain, repair, operate, extend, or expand a proposed or existing project in the county to the extent and in the manner applicable to the department under Chapter 223 or to a regional tollway authority under Chapter 366.
- (b) The county or a local government corporation may exercise a power provided by Subsection (a)(6) only in a manner consistent with the other powers provided by this chapter. To the extent of a conflict between this chapter and Chapter 370, this chapter prevails.
- (c) A project or any portion of a project that is owned by the county and licensed or leased to a private entity or operated by a private entity under this chapter to provide

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transportation services to the general public is public property used for a public purpose and exempt from taxation by this state or a political subdivision of this state.

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

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

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

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transportation services to the general public is public property used for a public purpose and exempt from taxation by this state or a political subdivision of this state.

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

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

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

(g) An action of a county taken under this chapter must comply with the requirements of applicable federal law. The foregoing compliance requirement shall apply to the role of metropolitan planning organizations under federal law, including the approval of projects for conformity to

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the state implementation plan relating to air quality, the use of toll revenue, and the use of the right-of-way of and access to Federal-aid highways. Notwithstanding an action of a county taken under this chapter, the commission or department may take any action that is necessary to comply with any federal requirement to enable the state to receive Federal-aid highway funds.

SECTION 8. Subchapter A, Chapter 284, Transportation Code, is amended by adding Sections 284.0031 and 284.0032 and amending Section 284.004 to read as follows:

Sec. 284.0031. OTHER ROAD, STREET, OR HIGHWAY PROJECTS. (a) The commissioners court of a county or a local government corporation, without state approval, supervision, or regulation may:

(1) authorize the use of surplus revenue of a project for the study, design, construction, maintenance, repair, or operation of roads, streets, highways, or other related facilities that are not part of a project under this chapter; and

(2) prescribe terms for the use of the surplus revenue, including the manner in which the roads, streets, highways, or other related facilities are to be studied, designed, constructed, maintained, repaired, or operated.

(b) To implement this section, a county may enter into

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

Sec. 284.0031. OTHER ROAD, STREET, OR HIGHWAY PROJECTS. (a) The commissioners court of a county or a local government corporation, without state approval, supervision, or regulation may:

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

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

(b) To implement this section, a county may enter into

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an agreement with the commission, the department, a local governmental entity, or another political subdivision of this state.

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

(d) Except as provided by this section, a county has the same powers and may use the same procedures with respect to the study, financing, design, construction, maintenance, repair, or operation of a road, street, highway, or other related facility under this section as are available to the county with respect to a project under this chapter.

(e) Notwithstanding any other law, an authority created pursuant to Chapter 451 that is located primarily in a county with a population of more than 3.3 million to which this chapter applies and in which the voters have authorized the dedication of a portion of its sales and use tax revenue for street improvements and mobility projects within the authority's service area must account for the entire amount of that liability on its financial statements in accordance with generally accepted accounting principles.

Sec. 284.0032. TRANS-TEXAS CORRIDOR PROJECTS. If a county requests or is requested by the commission to participate in the development of a project under this chapter that has been designated as

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an agreement with the commission, the department, a local governmental entity, or another political subdivision of this state.

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

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

Sec. 284.0032. TRANS-TEXAS CORRIDOR PROJECTS. If a county requests or is requested by the commission to participate in the development of a project under this chapter that has been designated as

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part of the Trans-Texas Corridor, in connection with the project and in addition to the other powers granted by this chapter, the county has all the powers of the department related to the development of a project that has been designated as part of the Trans-Texas Corridor.
Sec. 284.004. USE OF COUNTY PROPERTY AND STATE HIGHWAY ALIGNMENT, RIGHT-OF-WAY, AND ACCESS. (a) Notwithstanding any other law, under this chapter a county may use any county property, state highway right-of-way, or access to the state highway system [for a project under this chapter], regardless of when or how the property, right-of-way, or access is acquired. The department or the commission may require the county to comply with any covenant, condition, restriction, or limitation that affects state highway right-of-way, but may not:
(1) adopt rules or establish policies that have the effect of denying the county the use of the right-of-way or access that the county has determined to be necessary or convenient for the construction, acquisition, improvement, operation, maintenance, or pooling of a project under this chapter or the implementation of a plan under Section 284.003(d); or
(2) require the county to pay for the use of the right-of-way or access, except to reimburse the commission or department for actual costs incurred or to be incurred by a third party, including the federal government, as a result of that use by the county.
(b) If a project of the county under this chapter includes

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part of the Trans-Texas Corridor, in connection with the project and in addition to the other powers granted by this chapter, the county has all the powers of the department related to the development of a project that has been designated as part of the Trans-Texas Corridor.
Sec. 284.004. USE OF COUNTY PROPERTY AND STATE HIGHWAY ALIGNMENT, RIGHT-OF-WAY, AND ACCESS. (a) Notwithstanding any other law, under this chapter a county may use any county property, state highway right-of-way, or access to the state highway system [for a project under this chapter], regardless of when or how the property, right-of-way, or access is acquired. The department or the commission may require the county to comply with any covenant, condition, restriction, or limitation that affects state highway right-of-way, but may not:
(1) adopt rules or establish policies that have the effect of denying the county the use of the right-of-way or access that the county has determined to be necessary or convenient for the construction, acquisition, improvement, operation, maintenance, or pooling of a project under this chapter or the implementation of a plan under Section 284.003(d); or
(2) require the county to pay for the use of the right-of-way or access, except to reimburse the commission or department for actual costs incurred or to be incurred by a third party, including the federal government, as a result of that use by the county.
(b) If a project of the county under this chapter includes

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the proposed use of improved state highway right-of-way, the county and the commission or the department must enter into an agreement that includes reasonable terms to accommodate that use of the right-of-way by the county and to protect the interests of the commission and the department in the use of the right-of-way for operations of the department.

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

SECTION 9. Sections 284.008(c) and (d), Transportation Code, are amended to read as follows:

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

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

(2) a sufficient amount for the payment of all bonds and the interest on the bonds to maturity has been set aside by the issuer of the bonds or another person with the

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the proposed use of improved state highway right-of-way, the county and the commission or the department must enter into an agreement that includes reasonable terms to accommodate that use of the right-of-way by the county and to protect the interests of the commission and the department in the use of the right-of-way for operations of the department, including public safety and congestion mitigation on the improved right-of-way.

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

SECTION 7. Same as House version.

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consent or approval of the issuer in a trust fund held for the benefit of the bondholders.

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

- (1) Section 362.051 does not apply to the project;
- (2) the project must be maintained by the county; and
- (3) the project will not become part of the state highway system unless the county transfers the project under Section 284.011.

SECTION 10. Subchapter A, Chapter 284, Transportation Code, is amended by adding Section 284.0092 to read as follows:

Sec. 284.0092. AUDIT BY FEDERAL HIGHWAY ADMINISTRATION. The accounts and records of a county relating to a project under this chapter located in a county that has a population of more than 3.4 million and is within 100 miles of the Gulf of Mexico are subject to audit by the Federal Highway Administration as deemed necessary by that agency.

No equivalent provision.

SECTION 11. Subchapter A, Chapter 284, Transportation Code, is amended by adding Section 284.010 to read as follows:

No equivalent provision.

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Sec. 284.010. CONTRACTOR CONTRIBUTIONS PROHIBITED. A person who enters into a contract with a county under this chapter may not make a political contribution to a person who is a commissioner or county judge of the county or who is a candidate for the office of commissioner or county judge of the county.

SECTION 12. Sections 284.065(b) and (c), Transportation Code, are amended to read as follows:
(b) An existing project may be pooled in whole or in part with a new project or another existing project.
(c) A project may [~~not~~] be pooled more than once.

No equivalent provision.

No equivalent provision.

SECTION 8. Same as House version.

SECTION 9. Section 366.003, Transportation Code, is amended by adding Subdivision (9-a) to read as follows:
(9-a) "Surplus revenue" means the revenue of a turnpike project or system remaining at the end of any fiscal year after all required payments and deposits have been made in accordance with all bond resolutions, trust agreements, indentures, credit agreements, or other instruments and contractual obligations of the authority payable from the revenue of the turnpike project or system.

SECTION 10. Chapter 366, Transportation Code, is amended by adding Subchapter H to read as follows:
SUBCHAPTER H. COMPREHENSIVE

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DEVELOPMENT AGREEMENTS

Sec. 366.401. COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) An authority may use a comprehensive development agreement with a private entity to design, develop, finance, construct, maintain, repair, operate, extend, or expand a turnpike project.

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

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

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

Sec. 366.402. PROCESS FOR ENTERING INTO COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) If an authority enters into a comprehensive development agreement, the authority shall use a competitive procurement process that provides the best value for the authority. An authority may accept unsolicited proposals for a proposed turnpike project or solicit proposals in accordance with this section.

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

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

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

(3) any other information the authority considers relevant or necessary.

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

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

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

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

(e) An authority may interview a private entity submitting an unsolicited proposal or responding to a request under Subsection (c). The authority shall evaluate each proposal based on the criteria described in the request for competing proposals and qualifications

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and may qualify or shortlist private entities to submit detailed proposals under Subsection (f). The authority must qualify or shortlist at least two private entities to submit detailed proposals for a project under Subsection (f) unless the authority does not receive more than one proposal or one response to a request under Subsection (c).

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

- (1) the private entity's qualifications and demonstrated technical competence;
- (2) the feasibility of developing the project as proposed;
- (3) engineering or architectural designs;
- (4) the private entity's ability to meet schedules; or
- (5) a financial plan, including costing methodology and cost proposals.

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

(h) An authority shall evaluate each proposal based on the criteria described in the request for detailed proposals and select the private entity whose proposal offers the

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apparent best value to the authority.

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

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

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

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

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

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payment of the stipulated amount:

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

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

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

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

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

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

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

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

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

Sec. 366.404. PERFORMANCE AND PAYMENT SECURITY. (a) Notwithstanding the requirements of Subchapter B, Chapter 2253, Government Code, an authority shall require a private entity entering into a comprehensive development agreement under this subchapter to provide a performance and payment bond or an alternative form of security in an amount sufficient to:

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

(2) protect:

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- (A) the authority; and
- (B) payment bond beneficiaries who have a direct contractual relationship with the private entity or a subcontractor of the private entity to supply labor or material.
- (b) A performance and payment bond or alternative form of security shall be in an amount equal to the cost of constructing or maintaining the project.
- (c) If an authority determines that it is impracticable for a private entity to provide security in the amount described by Subsection (b), the authority shall set the amount of the bonds or the alternative forms of security.
- (d) A payment or performance bond or alternative form of security is not required for the portion of an agreement that includes only design or planning services, the performance of preliminary studies, or the acquisition of real property.
- (e) The amount of the payment security must not be less than the amount of the performance security.
- (f) In addition to, or instead of, performance and payment bonds, an authority may require the following alternative forms of security:
 - (1) a cashier's check drawn on a financial entity specified by the authority;
 - (2) a United States bond or note;
 - (3) an irrevocable bank letter of credit; or
 - (4) any other form of security determined suitable by the authority.
- (g) An authority by rule shall prescribe requirements for

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alternative forms of security provided under this section.
Sec. 366.405. OWNERSHIP OF TURNPIKE PROJECTS. (a) A turnpike project that is the subject of a comprehensive development agreement with a private entity, including the facilities acquired or constructed on the project, is public property and is owned by the authority.
(b) Notwithstanding Subsection (a), an authority may enter into an agreement that provides for the lease of rights-of-way, the granting of easements, the issuance of franchises, licenses, or permits, or any lawful uses to enable a private entity to construct, operate, and maintain a turnpike project, including supplemental facilities. At the termination of the agreement, the turnpike project, including the facilities, are to be in a state of proper maintenance as determined by the authority and shall be returned to the authority in satisfactory condition at no further cost.
Sec. 366.406. LIABILITY FOR PRIVATE OBLIGATIONS. An authority may not incur a financial obligation for a private entity that designs, develops, finances, constructs, operates, or maintains a turnpike project. The authority or a political subdivision of the state is not liable for any financial or other obligation of a turnpike project solely because a private entity constructs, finances, or operates any part of the project.
Sec. 366.407. TERMS OF PRIVATE PARTICIPATION. (a) An authority shall negotiate the terms of private participation in a turnpike project under

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this subchapter, including:

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

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

(3) acceptable safety and policing standards; and

(4) other applicable professional, consulting, construction, operation, and maintenance standards, expenses, and costs.

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

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

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

(3) providing for the payment of an obligation incurred under the comprehensive development agreement, including an obligation to pay the purchase price for the interest of a private participant in the comprehensive

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development agreement, from any available source, including securing the obligation by a pledge of revenues of the authority derived from the applicable project, which pledge shall have priority as established by the authority;

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

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

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

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

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

(e) Notwithstanding any other law, and subject to compliance with the dispute resolution procedures set out in the comprehensive development agreement, an

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obligation of an authority under a comprehensive development agreement entered into under this subchapter to make or secure payments to a person because of the termination of the agreement, including the purchase of the interest of a private participant or other investor in a project, may be enforced by mandamus against the authority in a district court of any county of the authority, and the sovereign immunity of the authority is waived for that purpose. The district courts of any county of the authority shall have exclusive jurisdiction and venue over and to determine and adjudicate all issues necessary to adjudicate any action brought under this subsection. The remedy provided by this subsection is in addition to any legal and equitable remedies that may be available to a party to a comprehensive development agreement.

(f) If an authority enters into a comprehensive development agreement with a private participant that includes the collection by the private participant of tolls for the use of a toll project, the private participant shall submit to the authority for approval:

(1) the methodology for:

(A) the setting of tolls; and

(B) increasing the amount of the tolls;

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

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

(B) any charge to be imposed to recover the cost of

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collecting a delinquent toll; and
(3) any proposed change in an approved methodology for the setting of a toll or a plan for collecting the toll.
(g) Except as provided by this section, a comprehensive development agreement with a private participant that includes the collection by the private participant of tolls for the use of a toll project may be for a term not longer than 30 years.
Sec. 366.408. RULES, PROCEDURES, AND GUIDELINES GOVERNING SELECTION AND NEGOTIATING PROCESS. (a) To promote fairness, obtain private participants in turnpike projects, and promote confidence among those participants, an authority shall adopt rules, procedures, and other guidelines governing selection of private participants for comprehensive development agreements and negotiations of comprehensive development agreements. The rules must contain criteria relating to the qualifications of the participants and the award of the contracts.
(b) An authority shall have up-to-date procedures for participation in negotiations under this subchapter.
(c) An authority has exclusive judgment to determine the terms of an agreement.
Sec. 366.409. USE OF CONTRACT PAYMENTS. (a) Payments received by an authority under a comprehensive development agreement shall be used by the authority to finance the construction, maintenance, or operation of a turnpike project or a highway.

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

No equivalent provision.

SECTION 11. Subsection (f), Section 366.033, Transportation Code, is amended to read as follows:
(f) An authority may rent, lease, franchise, license, or otherwise make portions of any property of the authority, including tangible or intangible property, [its properties] available for use by others in furtherance of its powers under this chapter by increasing:
(1) the feasibility or efficient operation [the revenue] of a turnpike project or system; or
(2) the revenue of the authority.

No equivalent provision.

SECTION 12. Subchapter B, Chapter 366, Transportation Code, is amended by adding Sections 366.037, 366.038, and 366.039 to read as follows:
Sec. 366.037. OTHER HIGHWAY PROJECTS. (a) In

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addition to the powers granted under this chapter and without supervision or regulation by any state agency or local governmental entity, but subject to an agreement entered into under Subsection (c), the board of an authority may by resolution, and on making the findings set forth in this subsection, authorize the use of surplus revenue of a turnpike project or system for the study, design, construction, maintenance, repair, and operation of a highway or similar facility that is not a turnpike project if the highway or similar facility is:

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

(2) anticipated to either:

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

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

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

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

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

(d) An authority may not:

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

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

(e) In authorizing expenditures under this section, the board shall consider:

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

(2) connectivity to an existing or proposed turnpike project or system.

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

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Sec. 366.038. TOLL PROJECTS IN TERRITORY OF LOCAL OR REGIONAL TOLL PROJECT ENTITY.

(a) In this section, "local toll project entity" means a regional tollway authority under this chapter.

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

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

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

(e) If a local toll project entity does not exercise the right to first option under Subsection (b) and after five years after the date of the notice under Subsection (b) the commission or the department has not issued a request

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for proposal or taken any other action to begin the toll project, before taking such an action the commission or the department shall provide the toll project entity the right to first option under Subsection (b).

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

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

(h) A local toll project entity that exercises the option under Subsection (b) must begin the environmental phase of the project within 18 months of the action taken by the entity under Subsection (b).

Sec. 366.039. USE OF STATE HIGHWAY ALIGNMENT, RIGHT-OF-WAY, AND ACCESS. (a) Notwithstanding any other law, an authority may use any authority property, state highway right-of-way, or access to the state highway system, regardless of when or how the property, right-of-way, or access is acquired. The department or the commission may require the authority to comply with any covenant, condition, restriction, or limitation that affects state highway right-of-way, but may not:

(1) adopt rules or establish policies that have the effect of denying the authority the use of the right-of-way or

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access that the authority has determined to be necessary or convenient for the construction, acquisition, improvement, operation, maintenance, or pooling of a project under this chapter; or

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

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

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

No equivalent provision.

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

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Sec. 366.185. ENGINEERING, DESIGN, AND CONSTRUCTION SERVICES [~~COMPETITIVE BIDDING~~].

No equivalent provision.

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

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

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

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

(e) Notwithstanding any other provision of state law, an authority may let a contract for the design and construction of a turnpike project by a construction manager-at-risk procedure under which the construction manager-at-risk provides consultation to the authority during the design of the turnpike project and is responsible for construction of the turnpike project in

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accordance with the authority's specifications. A construction manager-at-risk shall be selected on the basis of criteria established by the authority, which may include the construction manager-at-risk's experience, past performance, safety record, proposed personnel and methodology, proposed fees, and other appropriate factors that demonstrate the construction manager-at-risk's ability to provide the best value to the authority and to deliver the required services in accordance with the authority's specifications.

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

No equivalent provision.

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

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

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

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

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

(c) A director who receives an unsolicited benefit that the director is prohibited from accepting under this section may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.

(d) This section does not apply to:

(1) a fee prescribed by law to be received by a director;

(2) a benefit to which the director is lawfully entitled; or

(3) a benefit for which the director gives legitimate consideration in a capacity other than as a director.

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

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

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

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

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

No equivalent provision.

SECTION 16. Subchapter F, Chapter 366, Transportation Code, is amended by adding Section 366.2575 to read as follows:

Sec. 366.2575. BOARD VOTE ON COUNTY REQUEST. The commissioners court of a county of an authority may request the board of the authority to vote on whether to build a project that the county requests.

No equivalent provision.

SECTION __. Section 366.301, Transportation Code, is amended by adding the following new Subsection 366.301(e):

(e) An action of an authority under this chapter must comply with the requirements of applicable federal law, if any, including standards regarding the role of metropolitan planning organizations under federal law, the use of toll revenue, the planning, design, financing, construction, and operation of turnpike projects, and the use of right-of-way of and access to federal-aid highways, to the extent such standards are otherwise applicable to an authority's turnpike project. Nothing in this chapter shall impair the ability of the commission or the department to ensure compliance with any federal

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requirement enabling the state to receive federal highway money.

No equivalent provision.

SECTION 17. Subchapter G, Chapter 366, Transportation Code, is amended by adding Section 366.305 to read as follows:

Sec. 366.305. TRANS-TEXAS CORRIDOR PROJECTS. If an authority is requested by the commission to participate in the development of a turnpike project that has been designated as part of the Trans-Texas Corridor, the authority shall have, in addition to all powers granted in this chapter, all powers of the department related to the development of Trans-Texas Corridor projects.

No equivalent provision.

SECTION __. Section 370.301(d), Transportation Code, is amended as follows:

(d) The commission or department may use federal money for any purpose described by this chapter. An action of an authority under this chapter or chapter 228 must comply with the requirements of applicable federal law, if any, including standards regarding the role of metropolitan planning organizations under federal law, the use of toll revenue, the planning, design, financing, construction, and operation of turnpike projects, and the use of right-of-way of and access to federal-aid highways, to the extent such standards are otherwise

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applicable to an authority's turnpike project. Nothing in this chapter or chapter 228 shall impair the ability of the commission or the department to ensure compliance with any federal requirement enabling the state to receive federal highway money.

No equivalent provision.

SECTION __. Section 370.305(d), Transportation Code, is amended to read as follows:

(d) This section expires on August 31, 2009 [2011].

Section 370.305(d), Transportation Code does not apply to a comprehensive development agreement in connection with a project that:

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

(b) the major portion of which is located in a nonattainment or near nonattainment air quality area as designed by the United States Environmental Protection Agency; and

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

No equivalent provision.

SECTION __. Section 370.306(m), Transportation Code, is amended to read as follows:

(m) An authority may [~~shall~~] pay an unsuccessful private entity that submits a response to a request for detailed proposals under Subsection (f) a stipulated amount of the final contract price for any costs incurred

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in preparing that proposal. A [~~The~~] stipulated amount must be stated in the request for proposals and may not exceed the value of any work product contained in the proposal that can, as determined by the authority, be used by the authority in the performance of its functions. The use by the authority of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the authority and does not confer liability on the recipient of the stipulated amount under this subsection.

After payment of the stipulated amount:

- (1) the authority owns the exclusive rights to, and may make use of any work product contained in, the proposal, including the technologies, techniques, methods, processes, and information contained in the project design; and
- (2) the work product contained in the proposal becomes the property of the authority.

SECTION 13. Subtitle G, Title 6, Transportation Code, is amended by adding Chapter 371 to read as follows:

CHAPTER 371. PROVISIONS APPLICABLE TO MORE THAN ONE TYPE OF TOLL PROJECT

Sec. 371.001. VEHICLES DISPLAYING "HYBRID VEHICLE" INSIGNIA. (a) In this section, "toll project" means a toll project described by Section 201.001(b), regardless of whether the toll project is:

- (1) a part of the state highway system;
- (2) subject to the jurisdiction of the department; or

No equivalent provision.

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(3) constructed or operated by the department or another entity authorized to construct or operate a toll project.

(b) A motor vehicle displaying the "hybrid vehicle" insignia authorized by Section 502.1861 in an easily readable location on the back of the vehicle may use a high occupancy vehicle lane located on a toll project regardless of the number of occupants in the vehicle unless the use would impair the receipt of federal transit funds.

No equivalent provision.

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

CHAPTER 371. COMPREHENSIVE DEVELOPMENT AGREEMENTS FOR HIGHWAY TOLL PROJECTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 371.001. DEFINITIONS. In this chapter:

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

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

(B) subject to the jurisdiction of the department.

(2) "Toll project entity" means an entity authorized by law to acquire, design, construct, operate, and maintain a toll project, including:

(A) the department, including under Chapter 227; (B) a regional tollway authority under Chapter 366;

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(C) a regional mobility authority under Chapter 370; or
(D) a county under Chapter 284.

[Sections 371.002-371.050 reserved for expansion]

SUBCHAPTER B. OVERSIGHT

Sec. 371.051. ATTORNEY GENERAL REVIEW. A toll project entity may not enter into a comprehensive development agreement unless the attorney general reviews the proposed agreement and determines that it is legally sufficient.

Sec. 371.052. NOTIFICATION TO LEGISLATIVE BUDGET BOARD AND STATE AUDITOR. (a) Not later than the 10th day after the date of qualifying or shortlisting private entities to submit detailed proposals for a toll project, a toll project entity shall provide the Legislative Budget Board with the names of qualifying or shortlisted proposers and their team members.

(b) At least 30 days before entering into a comprehensive development agreement, a toll project entity shall provide the Legislative Budget Board with:

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

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

(3) a financial forecast prepared by the toll project entity that includes:

(A) toll revenue the entity projects will be derived from the project during the planned term of the agreement;

(B) estimated construction costs and operating expenses;
and

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(C) the amount of income the entity projects the private participant in the agreement will realize during the planned term of the agreement.

(c) Before entering into a comprehensive development agreement, a toll project entity shall provide the state auditor with the traffic and revenue report prepared by the toll project entity or its consultant for the project. The entity may not enter into the comprehensive development agreement before the 30th day after the date that the state auditor receives the report so that the state auditor may review and comment on the report and the methodology used to develop the report.

(d) Before the comprehensive development agreement is entered into, financial forecasts and traffic and revenue reports prepared by or for a toll project entity for the project are confidential and are not subject to disclosure, inspection, or copying under Chapter 552, Government Code.

[Sections 371.053-371.100 reserved for expansion]

SUBCHAPTER C. CONTRACT PROVISIONS

Sec. 371.101. TERMINATION FOR CONVENIENCE.

(a) A toll project entity having rulemaking authority by rule and a toll project entity without rulemaking authority by official action shall develop a formula for making termination payments to terminate a comprehensive development agreement under which a private participant receives the right to operate and collect revenue from a toll project. A formula must calculate an estimated amount of loss to the private

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participant as a result of the termination for convenience that is based on investments, expenditures, and rate of return associated with the project.

(b) A formula under Subsection (a) may not include an estimate of future revenue from the project.

Sec. 371.102. TERMINATION OF CERTAIN COMPREHENSIVE DEVELOPMENT AGREEMENTS. If a toll project entity elects to terminate a comprehensive development agreement under which a private participant receives the right to operate and collect revenue from a project, the entity may:

(1) if authorized to issue bonds for that purpose, issue bonds to:

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

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

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

Sec. 371.103. PROHIBITION AGAINST LIMITING OR PROHIBITING CONSTRUCTION OF TRANSPORTATION PROJECTS. (a) A comprehensive development agreement may not contain a provision that limits or prohibits the construction, reconstruction, expansion, rehabilitation, operation, or maintenance of a highway or other transportation project,

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as that term is defined by Section 370.003, by the toll project entity or other governmental entity, or by a private entity under a contract with the toll project entity or other governmental entity.

(b) Except as provided by Subsection (c), a comprehensive development agreement may contain a provision authorizing the toll project entity to compensate the private participant in the agreement for the loss of toll revenues attributable to the construction by the entity of a limited access highway project located within an area that extends up to four miles from either side of the centerline of the project developed under the agreement, less the private participant's decreased operating and maintenance costs attributable to the highway project, if any.

(c) A comprehensive development agreement may not require the toll project entity to provide compensation for the construction of:

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

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

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

(4) a transportation project that provides a mode of

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transportation that is not included in the project that is the subject of the comprehensive development agreement.

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

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

[Sections 371.104-371.150 reserved for expansion]

SUBCHAPTER D. DISCLOSURE OF INFORMATION

Sec. 371.151. DISCLOSURE OF FINANCIAL INFORMATION. (a) Before a toll project entity enters into a contract for the construction of a toll project, the entity shall publish in the manner provided by Section 371.152 information regarding:

(1) project financing, including:

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

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

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- (C) the projected amount of interest that will be paid on the debt;
 - (2) whether the toll project will continue to be tolled after the debt has been repaid;
 - (3) a description of the method that will be used to set toll rates;
 - (4) a description of any terms in the contract relating to competing facilities, including any penalties associated with the construction of a competing facility;
 - (5) a description of any terms in the contract relating to a termination for convenience provision, including any information regarding how the value of the project will be calculated for the purposes of making termination payments;
 - (6) the initial toll rates, the methodology for increasing toll rates, and the projected toll rates at the end of the term of the contract; and
 - (7) the projected total amount of concession payments.
 - (b) A toll project entity may not enter into a contract for the construction of a toll project before the 30th day after the date the information is first published under Section 371.152.
- Sec. 371.152. DISCLOSURE BY PUBLICATION. (a) Information under Section 371.151 must be published in a newspaper published in the county in which the toll project is to be constructed once a week for at least two weeks before the time set for entering into the contract and in two other newspapers that the toll project entity may designate.

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

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

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

(2) in which a newspaper is published.

Sec. 371.153. HEARING. (a) A toll project entity shall hold a public hearing on the information published under Section 371.152 not later than the 10th day after the date the information is first published and not less than 10 days before the entity enters into the contract.

(b) A hearing under this section must be held in the county seat of the county in which the toll project is located.

(c) A hearing under this section must include a formal presentation and a mechanism for responding to comments and questions.

SECTION 14. Subchapter D, Chapter 502, Transportation Code, is amended by adding Section 502.1861 to read as follows:

Sec. 502.1861. "HYBRID VEHICLE" INSIGNIA FOR

No equivalent provision.

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CERTAIN MOTOR VEHICLES. (a) At the time of registration or reregistration of the motor vehicle, the department shall issue a specially designed "hybrid vehicle" insignia for a motor vehicle that draws propulsion energy from both gasoline or conventional diesel fuel and from a rechargeable energy storage system.

(b) The department shall issue a "hybrid vehicle" insignia under this section without the payment of any additional fee to a person who:

(1) applies to the department on a form provided by the department; and

(2) submits proof that the motor vehicle being registered is a vehicle described by Subsection (a).

SECTION 15. Section 370.031(c), Transportation Code, is repealed.

No equivalent provision.

SECTION 16. Notwithstanding any other provision of this Act, Section 228.012, Transportation Code, as added by this Act, takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, Section 228.012, Transportation Code, takes effect September 1, 2007.

No equivalent provision.

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

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SECTION 18. Same as House version.

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