

By: Ogden

S.B. No. 1927

A BILL TO BE ENTITLED

AN ACT

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

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

ARTICLE I. TRANS-TEXAS CORRIDOR

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

TITLE 6. ROADWAYS AND TRANS-TEXAS CORRIDOR

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

SUBTITLE B. STATE HIGHWAY SYSTEM AND TRANS-TEXAS CORRIDOR

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

CHAPTER 227. TRANS-TEXAS CORRIDOR

SUBCHAPTER A. GENERAL PROVISIONS

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

Sec. 227.002. LEGISLATIVE INTENT AND CONSTRUCTION. (a) Transportation vitally affects the economy of this state and the public interest and welfare of its citizens. It is the policy of this state to exercise the full extent of its constitutional power to ensure the development of a new generation of facilities known as the Trans-Texas Corridor. The Trans-Texas Corridor will combine various facilities, including free highways, turnpikes, freight

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

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

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

25 (d) This chapter shall be liberally construed to achieve its
26 purposes.

27 Sec. 227.003. DEFINITIONS. In this chapter:

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

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

4 (3) "Facility" means:

5 (A) a state highway;

6 (B) a turnpike;

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

9 (D) a public utility facility;

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

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

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

23 (A) property that is part of the Trans-Texas
24 Corridor;

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

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

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

2 (6) "Public utility facility" means:

3 (A) a water, wastewater, natural gas, or
4 petroleum pipeline or facility;

5 (B) an electric transmission or distribution
6 facility; or

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

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

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

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

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

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

26 [Sections 227.006-227.010 reserved for expansion]

27 SUBCHAPTER B. ESTABLISHMENT

1 Sec. 227.011. DESIGNATION. The commission shall designate
2 facilities for the Trans-Texas Corridor.

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

- 6 (1) current and projected traffic patterns;
7 (2) the safety of motorists;
8 (3) potential risks to persons from spills or
9 accidents of any kind;
10 (4) environmental effects, including the effect on air
11 quality;
12 (5) current and projected economic development;
13 (6) the current and projected need for additional
14 transportation options; and
15 (7) system connectivity.

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

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

1 economically be constructed and operated if it were a part of the
2 system and that the addition will benefit the system.

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

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

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

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

14 [Sections 227.016-227.020 reserved for expansion]

15 SUBCHAPTER C. DEVELOPMENT AND OPERATION

16 Sec. 227.021. AUTHORITY OF DEPARTMENT. (a) The department
17 may:

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

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

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

25 Sec. 227.022. PARTICIPATION BY OTHER ENTITIES. (a) A toll
26 or non-toll highway on the Trans-Texas Corridor that is constructed
27 or operated by another entity shall be part of the state highway

1 system. This subsection applies even if the entity constructing or
2 operating the highway is not independently authorized to construct
3 or operate a highway that is part of the state highway system.

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

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

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

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

24 (b) The department shall contract with a private entity to
25 operate a railroad using rail facilities owned by the department
26 and may not use department employees to operate a railroad. The
27 department may maintain a rail facility directly or through a

1 private entity.

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

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

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

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

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

27 (b) The department may enter into an agreement with a rail

1 operator, transportation common carrier, transportation system, or
2 any other entity for the common use of any facility.

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

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

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

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

22 (b) The department may contract with a governmental or
23 private entity to maintain, control, hold, restore, enhance,
24 develop, or redevelop property for the mitigation of a past,
25 present, or future adverse environmental effect arising from the
26 construction or operation of any part of the Trans-Texas Corridor
27 without regard to whether the need for mitigation has already been

1 established for a particular project.

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

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

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

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

26 Sec. 227.030. UNAUTHORIZED USE. The department may remove
27 unauthorized personal property, including a vehicle, from the

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

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

11 [Sections 227.032-227.040 reserved for expansion]

12 SUBCHAPTER D. RIGHT-OF-WAY ACQUISITION

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

26 (b) An interest in real property or a property right is
27 necessary or convenient for the construction or operation of a

1 facility if it is located in or contiguous to an existing or planned
2 segment of the Trans-Texas Corridor and if its acquisition will
3 further the primary purposes of the Trans-Texas Corridor. Primary
4 purposes include:

5 (1) providing right-of-way or a location for a
6 facility;

7 (2) providing land for mitigation of adverse
8 environmental effects;

9 (3) providing buffer zones for scenic or safety
10 purposes;

11 (4) allowing for possible future expansion of any
12 facility; and

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

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

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

27 (b) A right to receive a corridor participation payment

1 under this section is subordinate to any right to receive a fee as
2 payment on the principal of or interest on a bond that is issued for
3 the construction of the applicable segment of the Trans-Texas
4 Corridor.

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

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

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

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

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

21 (2) to which the case is assigned.

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

26 (c) The declaration of taking must include:

27 (1) a specific reference to the legislative authority

1 for the condemnation;

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

4 (A) the municipality in which the property is
5 located;

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

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

8 (3) a statement of the property interest to be
9 condemned;

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

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

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

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

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

25 Sec. 227.046. POSSESSION OF PROPERTY. (a) Immediately on
26 the filing of a declaration of taking, the department shall serve a
27 copy of the declaration on each person possessing an interest in the

1 condemned property by a method prescribed by Section 21.016(d),
2 Property Code. The department shall file evidence of the service
3 with the clerk of the court. On filing of that evidence, the
4 department may take possession of the property pending further
5 proceedings.

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

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

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

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

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

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

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

27 (1) a trespass; or

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

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

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

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

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

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

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

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

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

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

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

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

15 [Sections 227.052-227.060 reserved for expansion]

16 SUBCHAPTER E. FINANCING

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

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

24 (2) a fee;

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

26 (4) proceeds from an obligation secured by the Texas
27 Mobility Fund;

- 1 (5) a donation, in kind or in cash;
2 (6) a private investment;
3 (7) money transferred from the state infrastructure
4 bank;
5 (8) a contribution from or contractual obligation of a
6 governmental entity; and
7 (9) a loan, grant, or reimbursement from the federal
8 government, subject to Section 227.0615.

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

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

- 17 (1) money spent for:
18 (A) feasibility studies, environmental studies,
19 and preliminary engineering conducted before the initial
20 construction of a facility; or
21 (B) maintenance or reconstruction of a facility;
22 (2) the proceeds of bonds or other public securities
23 issued to pay the cost of a facility deposited to the credit of the
24 state highway fund;
25 (3) revenue attributable to a facility deposited to
26 the credit of the state highway fund;
27 (4) loans deposited to the credit of the state highway

1 fund; or

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

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

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

12 (1) be dated;

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

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

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

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

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

26 (e) Additional bonds may be issued in the same manner to pay
27 the costs of a facility or system. Unless otherwise provided in the

1 order authorizing the issuance, the additional bonds shall be on a
2 parity, without preference or priority, with bonds previously
3 issued for that facility or system. In addition, the commission may
4 issue bonds for a facility or system secured by a lien on the
5 revenue of the facility or system subordinate to the lien on the
6 revenue securing other bonds issued for the facility or system.

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

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

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

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

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

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

27 (c) An order authorizing interim bonds may provide that the

1 interim bonds recite that the bonds are issued under this chapter.
2 The recital is conclusive evidence of the validity and the
3 regularity of the bonds' issuance.

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

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

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

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

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

25 (c) The commission may not incur a financial obligation that
26 cannot be paid from revenue derived from owning or operating a
27 facility or system or from other revenue provided by law.

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

5 (1) is enforceable at the time of payment for and
6 delivery of the bond;

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

9 (3) applies without physical delivery of an item or
10 other act; and

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

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

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

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

26 (c) A bond indenture may:

27 (1) set forth the rights and remedies of the

1 bondholders and the trustee;

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

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

8 (A) establishing the commission's duties
9 relating to:

10 (i) the acquisition of property;

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

13 (iii) custody, safeguarding, and
14 application of money;

15 (B) prescribing events that constitute default;

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

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

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

23 (e) In addition to all other rights by mandamus or other
24 court proceeding, an owner or trustee of a bond issued under this
25 chapter may enforce the owner's rights against the commission, the
26 department, or an agent or employee of the commission or department
27 and is entitled to:

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

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

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

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

17 (1) a copy of the legal opinion of the attorney general
18 stating the approval; and

19 (2) the record of proceedings relating to the
20 authorization of the bonds.

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

24 (d) After approval by the attorney general, the bonds, the
25 bond proceedings, and any supporting contract are valid,
26 enforceable, and incontestable in any court or other forum for any
27 reason and are binding obligations according to their terms for all

1 purposes.

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

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

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

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

22 SUBCHAPTER F. REVENUE

23 Sec. 227.071. FEES. (a) Notwithstanding any other law,
24 including Chapters 161, 162, 163, and 181, Utilities Code, Chapter
25 402, Local Government Code, and Chapter 49, Water Code, and except
26 as provided in Subsection (e), the department may require a person,
27 including a governmental or private entity, to pay a fee as a

1 condition of using any part of the Trans-Texas Corridor.

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

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

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

16 (1) the acquisition cost of the property being used;
17 (2) if applicable, the value of the property being
18 transported or of the service being offered;

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

21 (4) comparable fees set by the competitive
22 marketplace; and

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

25 (e) If a public road is replaced or eliminated by the
26 Trans-Texas Corridor and a facility used the right-of-way of that
27 road under Chapter 161, 162, 163, or 181, Utilities Code, Chapter

1 402, Local Government Code, or Chapter 49, Water Code, the
2 department may not require the owner of that facility to pay a fee
3 as a condition of using a segment of the Trans-Texas Corridor for
4 the location of a replacement facility.

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

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

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

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

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

- 22 (1) a cash payment;
23 (2) installment payments;
24 (3) one or more payments based on percentages of use or
25 throughput; and
26 (4) an interest in real or personal property, or an
27 intangible legal right.

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

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

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

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

25 (c) A prima facie speed limit that is declared by the
26 commission under this section is effective when the department
27 erects signs giving notice of the new limit. A new limit that is

1 enacted under this section is effective at all times or at other
2 times as determined.

3 (d) The commission may not:

4 (1) modify the rules established by Section
5 545.351(b); or

6 (2) establish a speed limit of more than 85 miles per
7 hour.

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

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

17 ARTICLE 2. REGIONAL MOBILITY AUTHORITIES

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

20 CHAPTER 370. REGIONAL MOBILITY AUTHORITIES

21 SUBCHAPTER A. GENERAL PROVISIONS

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

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

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

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

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

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

11 (b) This chapter shall be liberally construed to effect its
12 purposes.

13 Sec. 370.003. DEFINITIONS. In this chapter:

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

17 (2) "Board" means the board of directors of an
18 authority.

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

22 (4) "Bond proceeding" includes a bond resolution and a
23 bond indenture authorized by the bond resolution, a credit
24 agreement, loan agreement, or other agreement entered into in
25 connection with the bond or the payments to be made under the
26 agreement, and any other agreement between an authority and another
27 person providing security for the payment of a bond.

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

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

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

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

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

22 (10) "Public utility facility" means:

23 (A) a water, wastewater, natural gas, or
24 petroleum pipeline or facility;

25 (B) an electric transmission or distribution
26 facility; or

27 (C) telecommunications infrastructure,

1 including fiber optic cable, conduit, and wireless communications
2 facilities.

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

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

7 (A) an authority's debt service requirements for
8 a transportation project;

9 (B) coverage requirements of a bond indenture for
10 a transportation project;

11 (C) costs of operation and maintenance for a
12 transportation project;

13 (D) cost of repair, expansion, or improvement of
14 a transportation project;

15 (E) funds allocated for feasibility studies; and

16 (F) necessary reserves as determined by the
17 authority.

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

21 (14) "Transportation project" means:

22 (A) a turnpike project;

23 (B) a system;

24 (C) a passenger or freight rail facility,
25 including:

26 (i) tracks;

27 (ii) a rail line;

1 (iii) switching, signaling, or other
2 operating equipment;

3 (iv) a depot;

4 (v) a locomotive;

5 (vi) rolling stock;

6 (vii) a maintenance facility; and

7 (viii) other real and personal property
8 associated with a rail operation;

9 (D) a roadway with a functional classification
10 greater than a local road or rural minor collector;

11 (E) border crossing inspection stations;

12 (F) a ferry;

13 (G) an airport;

14 (H) a pedestrian or bicycle facility;

15 (I) an air quality improvement initiative;

16 (J) a public utility facility; and

17 (K) if applicable, projects and programs listed
18 in the most recently approved state implementation plan for the
19 area covered by the authority, including an early action compact.

20 (15) "Turnpike project" means a highway of any number
21 of lanes, with or without grade separations, owned or operated by an
22 authority under this chapter and any improvement, extension, or
23 expansion to that highway, including:

24 (A) an improvement to relieve traffic congestion
25 or promote safety;

26 (B) a bridge, tunnel, overpass, underpass,
27 interchange, service road, ramp, entrance plaza, approach, or

1 tollhouse;

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

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

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

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

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

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

18 (3) machinery and equipment;

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

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

27 (6) necessary or incidental administrative, legal,

1 and other expenses;

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

5 (8) financing; and

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

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

11 [Sections 370.005-370.030 reserved for expansion]

12 SUBCHAPTER B. CREATION AND POWERS OF REGIONAL MOBILITY AUTHORITIES

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

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

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

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

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

26 (2) the commission finds that the affected political
27 subdivisions in the county or counties will be adequately

1 represented on the board.

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

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

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

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

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

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

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

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

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

25 (d) The operations of an authority are governmental, not
26 proprietary, functions.

27 Sec. 370.033. GENERAL POWERS. (a) An authority, through

1 its board, may:

2 (1) adopt rules for the regulation of its affairs and
3 the conduct of its business;

4 (2) adopt an official seal;

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

10 (A) included in the plan approved by the
11 applicable metropolitan planning organization; and

12 (B) consistent with the statewide transportation
13 plan and the statewide transportation improvement plan;

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

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

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

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

26 (8) employ and set the compensation and benefits of
27 administrators, consulting engineers, attorneys, accountants,

1 construction and financial experts, superintendents, managers,
2 full-time and part-time employees, agents, consultants, and other
3 persons as the authority considers necessary or useful;

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

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

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

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

26 (13) enter into leases, operating agreements, service
27 agreements, licenses, franchises, and similar agreements with a

1 public or private party governing the party's use of all or any
2 portion of a transportation project and the rights and obligations
3 of the authority with respect to a transportation project;

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

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

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

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

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

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

25 (f) An authority and a governmental entity may enter into a
26 contract, agreement, interlocal agreement, or other similar
27 arrangement under which the authority may plan, design, construct,

or operate a transportation project on behalf of the governmental entity. An authority may enter into a contract with the department under which the authority will plan, develop, operate, or maintain a transportation project on behalf of the department.

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

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

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

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

(k) The authority granted to an authority under Subsection (a)(10) does not include the authority to operate a public utility

1 facility that provides retail public utility service.

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

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

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

23 Sec. 370.035. CONVERSION AND TRANSFER OF STATE HIGHWAY
24 SYSTEM PROJECTS. (a) The commission by order may convert a segment
25 of the free state highway system to a turnpike project and transfer
26 that segment to an authority, or may transfer an existing turnpike
27 project that is part of the state highway system, whether

1 previously tolled or not, to an authority if:

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

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

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

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

15 (c) In computing the cost of the turnpike project, the
16 commission shall:

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

23 (2) consider the anticipated future costs of
24 expanding, improving, maintaining, operating, or extending the
25 turnpike project to be incurred by the authority and not by the
26 department if the turnpike project is transferred.

27 (d) The commission may, at the time a turnpike project is

1 transferred, remove the turnpike project from the state highway
2 system. After a transfer, the commission has no liability,
3 responsibility, or duty for the maintenance or operation of the
4 turnpike project.

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

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

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

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

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

25 (1) agrees to the transfer; and
26 (2) agrees to assume the outstanding bonded
27 indebtedness.

1 (b) The commission may assume the outstanding bonded
2 indebtedness only if the assumption:

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

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

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

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

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

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

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

24 (1) the commission determines that the proposed
25 transfer is an integral part of the region's overall plan to improve
26 mobility in the region; and

27 (2) the authority:

1 (A) agrees to the transfer; and

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

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

10 (c) In computing the cost of the ferry, the commission
11 shall:

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

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

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

26 (e) Before transferring a ferry that is a part of the state
27 highway system under this section, the commission shall conduct a

1 public hearing at which interested persons shall be allowed to
2 speak on the proposed transfer. Notice of the hearing must be
3 published in the Texas Register, one or more newspapers of general
4 circulation in the counties in which the ferry is located, and a
5 newspaper, if any, published in the counties of the applicable
6 authority.

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

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

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

18 Sec. 370.038. COMMISSION RULES. (a) The commission shall
19 adopt rules that:

20 (1) govern the creation of an authority;

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

24 (3) establish design and construction standards for a
25 transportation project that will connect with a highway in the
26 state highway system or a department rail facility;

27 (4) establish minimum audit and reporting

1 requirements and standards;

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

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

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

14 [Sections 370.039-370.070 reserved for expansion]

15 SUBCHAPTER C. FEASIBILITY OF REGIONAL TRANSPORTATION PROJECTS

16 Sec. 370.071. EXPENDITURES FOR FEASIBILITY STUDIES. (a)
17 An authority may pay the expenses of studying the cost and
18 feasibility and any other expenses relating to the preparation and
19 issuance of bonds for a proposed transportation project by:

20 (1) using legally available revenue derived from an
21 existing transportation project;

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

26 (3) pledging to the payment of the bonds or a loan
27 agreement legally available revenue anticipated to be derived from

1 the operation of transportation projects or revenue legally
2 available to the authority from another source.

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

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

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

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

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

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

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

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

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

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

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

24 (1) the preparation and issuance of bonds for the
25 acquisition or construction of a proposed transportation project by
26 an authority;

27 (2) the improvement, extension, or expansion of an

1 existing transportation project of the authority; or

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

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

13 [Sections 370.074-370.110 reserved for expansion]

14 SUBCHAPTER D. TRANSPORTATION PROJECT FINANCING

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

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

23 (1) be dated;

24 (2) bear interest at the rate or rates provided by the
25 bond resolution and beginning on the dates provided by the bond
26 resolution and as authorized by law, or bear no interest;

27 (3) mature at the time or times provided by the bond

1 resolution, not exceeding 40 years from their date or dates; and

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

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

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

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

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

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

26 (h) Bonds issued under this chapter and income from the
27 bonds, including any profit made on the sale or transfer of the

1 bonds, are exempt from taxation in this state.

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

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

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

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

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

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

19 (1) the revenue of the transportation project for
20 which the bonds are issued;

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

24 (3) money derived from any other source available to
25 the authority, other than money derived from a transportation
26 project that is not part of the same system or money derived from a
27 different system, except to the extent that the surplus revenue of a

1 transportation project or system has been pledged for that purpose;
2 and

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

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

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

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

25 (1) is enforceable at the time of payment for and
26 delivery of the bond;

27 (2) applies to each item on hand or subsequently

1 received;

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

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

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

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

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

17 (c) A bond indenture may:

18 (1) set forth the rights and remedies of the
19 bondholders and the trustee;

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

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

26 (A) establishing the authority's duties relating
27 to:

1 (i) the acquisition of property;

2 (ii) the construction, maintenance,
3 operation, and repair of and insurance for a transportation
4 project; and

5 (iii) custody, safeguarding, and
6 application of money;

7 (B) prescribing events that constitute default;

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

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

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

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

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

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

25 Sec. 370.116. APPROVAL OF BONDS BY ATTORNEY GENERAL. (a)
26 An authority shall submit to the attorney general for examination
27 the record of proceedings relating to bonds authorized under this

1 chapter. The record shall include the bond proceedings and any
2 contract securing or providing revenue for the payment of the
3 bonds.

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

8 (1) a copy of the legal opinion of the attorney general
9 stating the approval; and

10 (2) the record of proceedings relating to the
11 authorization of the bonds.

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

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

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

25 (b) Bonds of an authority may secure the deposit of public
26 money of this state or a political subdivision of this state to the
27 extent of the lesser of the face value of the bonds or their market

1 value.

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

8 [Sections 370.119-370.160 reserved for expansion]

9 SUBCHAPTER E. ACQUISITION, CONSTRUCTION, AND OPERATION OF
10 TRANSPORTATION PROJECTS

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

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

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

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

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

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

26 (b) An authority, under an agreement with another
27 governmental entity, may construct, operate, maintain, expand, or

1 extend a transportation project in a county that is not part of the
2 authority and is not owned by the authority.

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

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

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

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

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

23 (2) franchises;

24 (3) easements;

25 (4) licenses; and

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

27 (c) An authority may acquire real property by any method,

1 including purchase and condemnation. An authority may purchase
 2 public or private real property on the terms and at the price the
 3 authority and the property owner consider reasonable.

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

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

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

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

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

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

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

5 (1) a trespass; or

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

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

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

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

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

19 (b) An authority may condemn real property that the
20 authority determines is:

21 (1) necessary or appropriate to construct or to
22 efficiently operate a transportation project;

23 (2) necessary to restore public or private property
24 damaged or destroyed, including property necessary or convenient to
25 mitigate an environmental effect that directly results from the
26 construction, operation, or maintenance of a transportation
27 project;

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

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

5 (5) otherwise necessary to implement this chapter.

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

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

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

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

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

21 (2) to which the case is assigned.

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

26 (c) The declaration of taking must include:

27 (1) a specific reference to the legislative authority

1 for the condemnation;

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

4 (A) the municipality in which the property is
5 located;

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

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

8 (3) a statement of the property interest to be
9 condemned;

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

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

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

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

26 (f) The date on which the declaration is filed is the date of
27 taking for the purpose of assessing the value of the property taken

1 and damages to any remaining property to which an owner is entitled.

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

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

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

26 (b) If the condemned property is a homestead or a portion of
27 a homestead as defined by Section 41.002, Property Code, an

1 authority may not take possession before the 31st day after the date
2 of service under Subsection (a).

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

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

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

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

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

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

25 (b) This state or a local government having charge of public
26 real property may consent to the use of the property for a
27 transportation project.

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

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

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

23 Sec. 370.170. COMPENSATION FOR AND RESTORATION OF PUBLIC
24 PROPERTY. (a) Except as provided by Section 370.035 or 370.165(c),
25 an authority may not pay compensation for public real property,
26 parkways, streets, highways, alleys, or reservations it takes,
27 other than:

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

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

6 (3) as provided by this chapter.

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

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

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

25 (b) If an authority determines it is necessary that a public
26 utility facility located in, on, along, over, or under a
27 transportation project be relocated in the transportation project,

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

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

- 12 (1) installation of the facility in a new location;
13 (2) damages incurred by the utility to its facilities
14 and services;
15 (3) interests in real property and other rights
16 acquired to accomplish the relocation or removal; and
17 (4) maintenance of grade separation structures.

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

- 24 (1) a material action or inaction of the authority; or
25 (2) conditions beyond the reasonable control of the
26 owner or operator of the facility, including:

- 27 (A) an act of God; or

1 (B) a labor shortage or strike.

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

8 (1) complies with applicable law; and

9 (2) attempts to minimize the disruption of utility
10 service.

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

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

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

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

24 (3) reasonable terms and conditions for the relocation
25 or removal of the facility.

26 (h) Subchapter C, Chapter 181, Utilities Code, applies to
27 the erection, construction, maintenance, and operation of a line or

1 pole owned by an electric utility, as that term is defined by
2 Section 181.041, Utilities Code, over, under, across, on, and along
3 a transportation project or system constructed by an authority. An
4 authority has:

5 (1) the powers and duties delegated to the
6 commissioners court by that subchapter; and

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

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

15 (1) the power and duties delegated to the
16 commissioners court by that subchapter; and

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

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

26 Sec. 370.172. LEASE, SALE, OR CONVEYANCE OF TRANSPORTATION
27 PROJECT. An authority may lease, sell, or convey in any other

1 manner a transportation project to a governmental entity with the
2 approval of the governing body of the governmental entity to which
3 the project is transferred.

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

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

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

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

21 (1) provides revenue sufficient to pay:

22 (A) the cost of maintaining, repairing, and
23 operating the transportation project; and

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

27 (2) creates reserves for a purpose listed under

1 Subdivision (1).

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

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

- 13 (1) interest on the bonds as it becomes due;
14 (2) principal of the bonds as it becomes due;
15 (3) necessary charges of paying agents for paying
16 principal and interest;
17 (4) the redemption price or the purchase price of
18 bonds retired by call or purchase as provided in the bond
19 proceedings; and
20 (5) any amounts due under credit agreements.

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

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

27 (g) An authority may not use revenue from a transportation

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

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

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

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

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

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

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

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

26 (1) finance the acquisition, construction,
27 maintenance, or operation of a transportation project, including

1 the extension, expansion, or improvement of a transportation
2 project;

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

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

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

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

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

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

23 Sec. 370.175. USE OF SURPLUS REVENUE. (a) Each year, if an
24 authority determines that it has surplus revenue from
25 transportation projects, it shall reduce tolls, spend the surplus
26 revenue on other transportation projects in the counties of the
27 authority in accordance with Subsection (b), or deposit the surplus

1 revenue to the credit of the Texas Mobility Fund.

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

5 (1) constructing a transportation project located
6 within the counties of the authority;

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

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

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

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

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

21 (1) a transportation project or system;

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

24 (3) income from property described by Subdivision (1)
25 or (2).

26 (b) An authority is exempt from payment of development fees,
27 utility connection fees, assessments, and service fees imposed or

1 assessed by any governmental entity or any property owners' or
2 homeowners' association.

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

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

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

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

27 Sec. 370.178. FAILURE OR REFUSAL TO PAY TURNPIKE PROJECT

TOLL; OFFENSE; ADMINISTRATIVE PENALTY. (a) The operator of a vehicle, other than an authorized emergency vehicle as defined by Section 541.201, that is driven or towed through a toll collection facility of a turnpike project shall pay the proper toll. The operator of a vehicle who drives or tows a vehicle through a toll collection facility and does not pay the proper toll commits an offense. An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$250.

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

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

(d) The registered owner of a vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under Subsection (c) and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. Each failure to pay a toll or administrative fee under

1 this subsection is a separate offense.

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

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

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

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

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

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

27 (j) It is a defense to prosecution under this section that

1 the motor vehicle in question was stolen before the failure to pay
2 the proper toll occurred and was not recovered by the time of the
3 failure to pay, but only if the theft was reported to the
4 appropriate law enforcement authority before the earlier of:

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

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

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

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

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

24 (c) The following entities shall consider offering motor
25 vehicle operators the option of using a transponder to pay tolls
26 without stopping, to mitigate congestion at toll locations, to
27 enhance traffic flow, and to otherwise increase the efficiency of

operations:

(1) the authority;

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

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

Sec. 370.180. CONTROLLED ACCESS TO TURNPIKE PROJECTS. (a) An authority by order may designate a turnpike project or a portion of a project as a controlled-access toll road.

(b) An authority by order may:

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

(2) deny access to or from:

(A) a turnpike project;

(B) real property adjacent to a turnpike project;

or

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

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

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

(5) erect appropriate protective devices to preserve the utility, integrity, and use of a turnpike project.

(c) Denial of access to or from a segment of the state

1 highway system is subject to the approval of the commission.

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

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

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

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

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

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

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

26 (2) attempt to identify disadvantaged businesses that
27 provide or have the potential to provide supplies, materials,

1 equipment, or services to the authority; and

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

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

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

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

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

24 (1) was part of a regional tollway authority under
25 Chapter 366; or

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

27 Sec. 370.188. PROJECT APPROVAL. (a) An authority may not

1 begin construction of a transportation project that will connect to
2 the state highway system or to a department rail facility without
3 the approval of the commission.

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

9 Sec. 370.189. ENVIRONMENTAL REVIEW OF AUTHORITY PROJECTS.

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

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

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

20 (3) require:

21 (A) an evaluation of any direct or indirect
22 environmental effect of the project;

23 (B) an analysis of project alternatives; and

24 (C) a written report that briefly explains the
25 authority's review of the project and that specifies any mitigation
26 measures on environmental harm on which the project is conditioned.

27 (b) An environmental review of a project must be conducted

1 before the authority may approve the location or alignment of the
2 project.

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

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

8 [Sections 370.190-370.250 reserved for expansion]

9 SUBCHAPTER F. GOVERNANCE

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

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

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

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

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

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

22 (g) The following individuals are ineligible to serve as a
23 director:

- 24 (1) an elected official;
25 (2) a person who is not a resident of a county within
26 the geographic area of the authority;
27 (3) a department employee;

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

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

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

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

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

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

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

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

26 (3) when the county is initially added to the
27 authority.

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

3 (1) accept or solicit any gift, favor, or service
4 that:

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

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

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

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

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

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

26 (6) have a personal interest in an agreement executed
27 by the authority.

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

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

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

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

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

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

25 (d) In this section, "Texas trade association" means a
26 nonprofit, cooperative, and voluntarily joined association of
27 business or professional competitors in this state designed to

1 assist its members and its industry or profession in dealing with
2 mutual business or professional problems and in promoting their
3 common interests.

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

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

13 (b) Each surety bond must be:

14 (1) conditioned on the faithful performance of the
15 duties of office;

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

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

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

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

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

24 (2) at the time of appointment or at any time during
25 the director's term, is ineligible under Section 370.251 or 370.252
26 to serve as a director;

27 (3) cannot discharge the director's duties for a

1 substantial part of the term for which the director is appointed
2 because of illness or disability; or

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

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

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

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

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

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

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

26 (2) prepare and maintain a written plan that describes
27 how an individual who does not speak English or who has a physical,

1 mental, or developmental disability may be provided reasonable
2 access to the authority's programs.

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

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

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

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

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

27 (b) Insurance coverage under this section must be provided

1 by the purchase of a policy of liability insurance from a reliable
2 insurance company authorized to do business in this state. The form
3 of the policy must be approved by the commissioner of insurance.

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

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

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

13 (1) contract with the authority; or

14 (2) be directly or indirectly interested in:

15 (A) a contract with the authority; or

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

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

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

27 (b) Not later than March 31 of each year, an authority shall

1 file with the commissioners court of each county of the authority a
2 written report on the authority's activities describing all
3 transportation revenue bond issuances anticipated for the coming
4 year, the financial condition of the authority, all project
5 schedules, and the status of the authority's performance under the
6 most recent strategic plan. At the invitation of a commissioners
7 court of a county of the authority, representatives of the board and
8 the administrative head of an authority shall appear before the
9 commissioners court to present the report and receive questions and
10 comments.

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

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

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

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

26 (d) Each part of the telephone conference call meeting that
27 by law must be open to the public shall be audible to the public at

1 the location specified in the notice and shall be tape-recorded or
2 documented by written minutes. On conclusion of the meeting, the
3 tape recording or the written minutes of the meeting shall be made
4 available to the public.

5 [Sections 370.263-370.300 reserved for expansion]

6 SUBCHAPTER G. PARTICIPATION IN FINANCING, CONSTRUCTION, AND
7 OPERATION OF TRANSPORTATION PROJECTS

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

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

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

1 contribution was made. Money deposited as required by this section
2 is exempt from the application of Section 403.095, Government Code.

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

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

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

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

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

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

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

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

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

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

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

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

24 Sec. 370.303. AGREEMENTS BETWEEN AUTHORITY AND LOCAL
25 GOVERNMENTAL ENTITIES. (a) A governmental entity other than a
26 nonprofit corporation may, consistent with the Texas Constitution,
27 issue bonds, notes, or other obligations or enter into and make

payments under agreements with an authority to acquire, construct, maintain, or operate a transportation project, whether inside or outside the geographic boundaries of the governmental entity, including agreements to pay the principal of, and interest on, bonds, notes, or other obligations issued by the authority and make payments under any related credit agreements. The entity may impose and collect taxes to pay the interest on the bonds and to provide a sinking fund for the redemption of the bonds.

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

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

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

(2) impose and collect taxes; or

(3) pledge revenue and impose and collect taxes.

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

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

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

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

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

23 Sec. 370.306. PROCESS FOR ENTERING INTO EXCLUSIVE
24 DEVELOPMENT AGREEMENTS. (a) If an authority enters into an
25 exclusive development agreement, the authority shall use a
26 competitive procurement process that provides the best value for
27 the authority. The authority may accept unsolicited proposals for

1 a proposed transportation project or solicit proposals in
2 accordance with this section.

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

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

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

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

13 (A) projected project costs; and

14 (B) proposed sources of funds.

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

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

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

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

27 (e) An authority may interview a private entity submitting

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

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

13 (1) the private entity's qualifications and
14 demonstrated technical competence;

15 (2) the feasibility of developing the project as
16 proposed;

17 (3) detailed engineering or architectural designs;

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

19 (5) costing methodology; or

20 (6) any other information the authority considers
21 relevant or necessary.

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

27 (h) An authority shall rank each proposal based on the

1 criteria described in the request for proposals and select the
2 private entity whose proposal offers the best value to the
3 authority.

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

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

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

20 (2) the work product contained in the proposal becomes
21 the property of the authority.

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

27 (1) Subchapter A, Chapter 223, of this code and Chapter

1 2254, Government Code, do not apply to an exclusive development
2 agreement entered into under Section 370.305.

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

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

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

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

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

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

1 (2) protect:

2 (A) the authority; and

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

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

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

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

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

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

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

23 (2) a United States bond or note;

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

25 (4) any other form of security determined suitable by
26 the authority.

27 (g) An authority by rule shall prescribe requirements for

1 alternative forms of security provided under this section.

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

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

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

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

22 (2) reasonable methods to determine and classify toll
23 rates;

24 (3) acceptable safety and policing standards; and

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

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

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

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

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

24 (e) An authority may agree to acquire the work product of an
25 unsuccessful proposer for the development of a project through an
26 exclusive development agreement or other form of private
27 involvement in a transportation project if the payment for such

1 work product does not exceed its value to the authority.

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

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

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

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

27 Sec. 370.315. TRANS-TEXAS CORRIDOR PROJECTS. In the event

1 that an authority is requested by the commission to participate in
2 the development of a transportation project that has been
3 designated as part of the Trans-Texas Corridor, the authority shall
4 have, in addition to all powers granted in this chapter, all powers
5 of the department related to the development of Trans-Texas
6 Corridor projects.

7 [Sections 370.316-370.330 reserved for expansion]

8 SUBCHAPTER H. DISSOLUTION OF AUTHORITY

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

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

14 (c) The commission may approve a request to dissolve only
15 if:

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

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

24 (3) the authority has commitments from other
25 governmental entities to assume jurisdiction of all authority
26 transportation facilities.

27 Sec. 370.332. INVOLUNTARY DISSOLUTION. (a) The commission

1 by order may require an authority to dissolve if the commission
2 determines that the authority has not substantially complied with
3 the requirements of a commission rule or an agreement between the
4 department and the authority.

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

6 (1) the conditions described in Sections
7 370.331(c)(1) and (2) have been met; and

8 (2) the holders of any indebtedness have evidenced
9 their agreement to the dissolution.

10 SECTION 2.02. Section 361.003, Transportation Code, is
11 repealed.

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

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

20 ARTICLE 3. EXCLUSIVE DEVELOPMENT AGREEMENTS

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

23 SUBCHAPTER N. EXCLUSIVE DEVELOPMENT AGREEMENTS

24 Sec. 201.951. DEFINITIONS. In this subchapter:

25 (1) "Exclusive development agreement" means an
26 agreement with a private entity that, at a minimum, provides for the
27 design and construction of a transportation project of the

1 department and may also provide for the financing, acquisition,
2 maintenance, or operation of a transportation project.

3 (2) "Transportation project" includes a facility as
4 defined by Section 227.003.

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

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

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

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

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

24 Sec. 201.954. PROCESS FOR ENTERING INTO EXCLUSIVE
25 DEVELOPMENT AGREEMENTS. (a) If the department enters into an
26 exclusive development agreement, the department shall use a
27 competitive procurement process that provides the best value for

1 the department. The department may accept unsolicited proposals
2 for a proposed project or solicit proposals in accordance with this
3 section.

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

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

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

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

14 (A) projected project costs; and

15 (B) proposed sources of funds.

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

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

23 (2) the department authorizes the further evaluation
24 of an unsolicited proposal.

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

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

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

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

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

(3) detailed engineering or architectural designs;

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

(5) costing methodology; or

(6) any other information the department considers relevant or necessary.

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

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

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

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

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

21 (2) the work product contained in the proposal becomes
22 the property of the department.

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

1 (1) Subchapter A, Chapter 223, of this code and Chapter
2 2254, Government Code, do not apply to an exclusive development
3 agreement entered into under Sections 201.952.

4 Sec. 201.955. CONFIDENTIALITY OF NEGOTIATIONS FOR
5 EXCLUSIVE DEVELOPMENT AGREEMENTS. To encourage private entities to
6 submit proposals under Section 201.954, the following information
7 is confidential, is not subject to disclosure, inspection, or
8 copying under Chapter 552, Government Code, and is not subject to
9 disclosure, discovery, subpoena, or other means of legal compulsion
10 for its release until a final contract for a proposed project is
11 entered into:

12 (1) all or part of a proposal submitted by a private
13 entity for an exclusive development agreement, except information
14 provided under Section 201.954(b)(1) and (2);

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

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

21 Sec. 201.956. PERFORMANCE AND PAYMENT SECURITY. (a)
22 Notwithstanding Section 223.006 and the requirements of Subchapter
23 B, Chapter 2253, Government Code, the department shall require a
24 private entity entering into an exclusive development agreement
25 under Section 201.952 to provide a performance and payment bond or
26 an alternative form of security in an amount sufficient to:

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

1 and

2 (2) protect:

3 (A) the department; and

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

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

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

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

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

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

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

24 (2) a United States bond or note;

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

26 (4) any other form of security determined suitable by
27 the department.

1 (g) The department by rule shall prescribe requirements for
2 alternative forms of security provided under this section.

3 Sec. 201.957. EXPIRATION. This subchapter expires August
4 31, 2011.

5 SECTION 3.02. Section 222.103(j), Transportation Code, is
6 repealed.

7 SECTION 3.03. This article takes effect immediately if this
8 Act receives a vote of two-thirds of all the members elected to each
9 house, as provided by Section 39, Article III, Texas Constitution.
10 If this Act does not receive the vote necessary for immediate
11 effect, this article takes effect September 1, 2003.

12 ARTICLE 4. ADVANCE ACQUISITION OF PROPERTY

13 SECTION 4.01. The heading to Chapter 202, Transportation
14 Code, is amended to read as follows:

15 CHAPTER 202. CONTROL OF TRANSPORTATION [~~HIGHWAY~~] ASSETS

16 SECTION 4.02. Chapter 202, Transportation Code, is amended
17 by adding Subchapter F to read as follows:

18 SUBCHAPTER F. ADVANCE ACQUISITION OF PROPERTY

19 Sec. 202.111. DEFINITION. In this subchapter, "advance
20 acquisition" means an acquisition by the commission under Section
21 202.112.

22 Sec. 202.112. ADVANCE ACQUISITIONS. (a) The commission
23 may make an acquisition of property for possible use in or in
24 connection with a transportation facility before a final decision
25 has been made as to whether the transportation facility will be
26 located on that property. An advance acquisition may be made under
27 any terms and conditions the commission considers proper.

1 (b) An advance acquisition shall be made by the commission
2 using the procedures authorized under Subchapter D of Chapter 203
3 or other law authorizing the commission or the department to
4 acquire real property or an interest in real property for a
5 transportation facility. If the commission acquires real property
6 or an interest in real property under Subchapter D of Chapter 203 or
7 other law, the commission may make an advance acquisition in the
8 manner provided by this subchapter.

9 (c) The commission may not make an advance acquisition by
10 condemnation.

11 Sec. 202.113. MANAGEMENT. If requested by the department,
12 property acquired by advance acquisition shall be managed by the
13 General Land Office on behalf of the department. The property may
14 not be sold or encumbered in any way by the General Land Office
15 except under a lease approved by the department.

16 Sec. 202.114. DISPOSAL OF SURPLUS PROPERTY. The commission
17 shall dispose of property acquired by advance acquisition that is
18 not needed for a transportation facility in the manner provided by
19 Subchapter B.

20 ARTICLE 5. DRIVER RESPONSIBILITY

21 SECTION 5.01. Subtitle I, Title 7, Transportation Code, is
22 amended by adding Chapter 708 to read as follows:

23 CHAPTER 708. DRIVER RESPONSIBILITY PROGRAM

24 SUBCHAPTER A. GENERAL PROVISIONS

25 Sec. 708.001. DEFINITIONS. In this chapter, "department"
26 and "license" have the meanings assigned by Section 521.001.

27 Sec. 708.002. RULES. The department shall adopt and

enforce rules to implement and enforce this chapter.

Sec. 708.003. FINAL CONVICTIONS. For purposes of this chapter, a conviction for an offense to which this chapter applies is a final conviction, regardless of whether the sentence is probated.

[Sections 708.004-708.050 reserved for expansion]

SUBCHAPTER B. DRIVER'S LICENSE POINTS SURCHARGE

Sec. 708.051. NONAPPLICABILITY. This subchapter does not apply to:

(1) a conviction that became final before September 1, 2003; or

(2) an offense covered by Subchapter C.

Sec. 708.052. ASSIGNMENT OF POINTS FOR CERTAIN CONVICTIONS.

(a) The driver's license of a person accumulates a point under this subchapter as of the date the department records a conviction of the person under Section 521.042 or other applicable law.

(b) For each conviction arising out of a separate transaction, the department shall assign points to a person's license as follows:

(1) one point for an offense under Section 545.413 or an analogous law of another state;

(2) two points for a moving violation of the traffic law of this state or another state that is not described by Subdivision (1) or (3); and

(3) three points for a moving violation of the traffic law of this state, another state, or a political subdivision of this or another state that resulted in an accident.

1 motor vehicle while intoxicated.

2 (c) The amount of a surcharge under this section is \$1,000
3 per year, except that for a third or subsequent conviction within a
4 36-month period, the amount of the surcharge is \$1,500 per year.

5 (d) A surcharge under this section for the same conviction
6 may not be assessed in more than three years.

7 Sec. 708.103. SURCHARGE FOR CONVICTION OF DRIVING WHILE
8 LICENSE INVALID OR WITHOUT FINANCIAL RESPONSIBILITY. (a) Each
9 year the department shall assess a surcharge on the license of each
10 person who during the preceding 36-month period has been convicted
11 of an offense under Section 521.457, 601.191, or 601.371.

12 (b) The amount of a surcharge under this section is \$250 per
13 year.

14 Sec. 708.104. SURCHARGE FOR CONVICTION OF DRIVING WITHOUT
15 VALID LICENSE. (a) Each year the department shall assess a
16 surcharge on the license of a person who during the preceding
17 36-month period has been convicted of an offense under Section
18 521.021.

19 (b) The amount of a surcharge under this section is \$100 per
20 year.

21 (c) A surcharge under this section for the same conviction
22 may not be assessed in more than three years.

23 [Sections 708.105-708.150 reserved for expansion]

24 SUBCHAPTER D. COLLECTION OF SURCHARGES

25 Sec. 708.151. NOTICE OF SURCHARGE. The department shall
26 notify the holder of a driver's license of the assessment of a
27 surcharge on that license by first class mail sent to the person's

1 most recent address as shown on the records of the department. The
2 notice must specify the date by which the surcharge must be paid and
3 state the consequences of a failure to pay the surcharge.

4 Sec. 708.152. FAILURE TO PAY SURCHARGE. (a) If before the
5 30th day after the date the department sends a notice under Section
6 708.151 the person fails to pay the amount of a surcharge on the
7 person's license or fails to enter into an installment payment
8 agreement with the department, the license of the person is
9 automatically suspended.

10 (b) A license suspended under this section remains
11 suspended until the person pays the amount of the surcharge and any
12 related costs.

13 Sec. 708.153. INSTALLMENT PAYMENT OF SURCHARGE. (a) The
14 department by rule shall provide for the payment of a surcharge in
15 installments.

16 (b) A rule under this section:

17 (1) may not permit a person to pay a surcharge:

18 (A) of less than \$2,300 over a period of more than
19 12 consecutive months; or

20 (B) of \$2,300 or more over a period of more than
21 24 consecutive months; and

22 (2) may provide that if the person fails to make a
23 required installment payment, the department may declare the amount
24 of the unpaid surcharge immediately due and payable.

25 Sec. 708.154. CREDIT CARD PAYMENT OF SURCHARGE. (a) The
26 department by rule may authorize the payment of a surcharge by use
27 of a credit card. The rules shall require the person to pay all

1 costs incurred by the department in connection with the acceptance
2 of the credit card.

3 (b) If a surcharge or a related cost is paid by credit card
4 and the amount is subsequently reversed by the issuer of the credit
5 card, the license of the person is automatically suspended.

6 (c) A license suspended under this section remains
7 suspended until the person pays the amount of the surcharge and any
8 related costs.

9 Sec. 708.155. CONTRACTS FOR COLLECTION OF SURCHARGES. The
10 department may enter into a contract with a private attorney or a
11 public or private vendor for the provision of services for the
12 collection of surcharges receivable under this chapter.

13 Sec. 708.156. REMITTANCE OF SURCHARGES COLLECTED TO
14 COMPTROLLER. Each surcharge collected by the department under this
15 chapter shall be remitted to the comptroller as required by Section
16 780.002, Health and Safety Code.

17 SECTION 5.02. Subtitle B, Title 9, Health and Safety Code,
18 is amended by adding Chapter 780 to read as follows:

19 CHAPTER 780. TRAUMA FACILITIES AND EMERGENCY MEDICAL SERVICES

20 Sec. 780.001. DEFINITIONS. In this chapter:

21 (1) "Account" means the designated trauma facility and
22 emergency medical services account established under Section
23 780.003.

24 (2) "Commissioner" means the commissioner of public
25 health.

26 (3) "Department" means the Texas Department of Health.

27 Sec. 780.002. DEPOSITS TO ACCOUNT. (a) On the first Monday

1 of each month, the Department of Public Safety shall remit the
2 surcharges collected during the previous month under the driver
3 responsibility program operated by that department under Chapter
4 708, Transportation Code, to the comptroller.

5 (b) The comptroller shall deposit 99 percent of the amount
6 of the surcharges collected to the account established under this
7 chapter. The remaining one percent of the amount of the surcharges
8 shall be deposited to the general revenue fund and may be
9 appropriated only to the Department of Public Safety for
10 administration of the driver responsibility program operated by
11 that department under Chapter 708, Transportation Code.

12 Sec. 780.003. ACCOUNT. (a) The designated trauma facility
13 and emergency medical services account is created as an account in
14 the state treasury. Money in the account may be appropriated only
15 to the department for the purposes described by Section 780.004.

16 (b) The account is composed of money deposited to the credit
17 of the account under Section 780.002, and the earnings of the
18 account.

19 (c) Sections 403.095 and 404.071, Government Code, do not
20 apply to the account.

21 Sec. 780.004. PAYMENTS FROM THE ACCOUNT. (a) The
22 commissioner, with advice and counsel from the chairpersons of the
23 trauma service area regional advisory councils, shall use money
24 appropriated from the account established under this chapter to
25 fund designated trauma facilities, county and regional emergency
26 medical services, and trauma care systems in accordance with this
27 section.

1 (b) The commissioner shall maintain a reserve of \$500,000 of
2 money appropriated from the account for extraordinary emergencies.

3 (c) In any fiscal year, the commissioner shall use at least
4 96 percent of the money appropriated from the account, after any
5 amount necessary to maintain the reserve established by Subsection
6 (b) is deducted, to fund a portion of the uncompensated trauma care
7 provided at facilities designated as state trauma facilities by the
8 department. The administrator of a designated facility may request
9 the presiding officer of a regional advisory council to petition
10 the department for disbursement of funds to a designated trauma
11 facility in the chairperson's trauma service area that has provided
12 uncompensated trauma care. Funds may be disbursed under this
13 subsection based on a proportionate share of uncompensated trauma
14 care provided in the state and may be used to fund innovative
15 projects to enhance the delivery of patient care in the overall
16 emergency medical services and trauma care system.

17 (d) In any fiscal year, the commissioner shall use not more
18 than two percent of the money appropriated from the account, after
19 any amount necessary to maintain the reserve established by
20 Subsection (b) is deducted, to fund, in connection with an effort to
21 provide coordination with the appropriate trauma service area, the
22 cost of supplies, operational expenses, education and training,
23 equipment, vehicles, and communications systems for local
24 emergency medical services. The money shall be distributed on
25 behalf of eligible recipients in each county to the trauma service
26 area regional advisory council for that county. To receive a
27 distribution under this subsection, the regional advisory council

1 must be incorporated as an entity that is exempt from federal income
2 tax under Section 501(a), Internal Revenue Code of 1986, and its
3 subsequent amendments, by being listed as an exempt organization
4 under Section 501(c)(3) of the code. The share of the money
5 allocated to the eligible recipients in a county's geographic area
6 shall be based on the relative geographic size and population of the
7 county and on the relative number of emergency or trauma care runs
8 performed by eligible recipients in the county. Money that is not
9 disbursed by a regional advisory council to eligible recipients for
10 approved functions by the end of the fiscal year in which the funds
11 were disbursed shall be returned to the department to be used in
12 accordance with Subsection (c).

13 (e) In any fiscal year, the commissioner may use not more
14 than one percent of the money appropriated from the account, after
15 any amount necessary to maintain the reserve established by
16 Subsection (b) is deducted, for operation of the 22 trauma service
17 areas and for equipment, communications, and education and training
18 for the areas. Money distributed under this subsection shall be
19 distributed on behalf of eligible recipients in each county to the
20 trauma service area regional advisory council for that county. To
21 receive a distribution under this subsection, the regional advisory
22 council must be incorporated as an entity that is exempt from
23 federal income tax under Section 501(a), Internal Revenue Code of
24 1986, and its subsequent amendments, by being listed as an exempt
25 organization under Section 501(c)(3) of the code. A regional
26 advisory council's share of money distributed under this section
27 shall be based on the relative geographic size and population of

each trauma service area and on the relative amount of trauma care provided. Money that is not disbursed by a regional advisory council to eligible recipients for approved functions by the end of the fiscal year in which the funds were disbursed shall be returned to the department to be used in accordance with Subsection (c).

(f) In any fiscal year, the commissioner may use not more than one percent of money appropriated from the account, after any amount necessary to maintain the reserve established by Subsection (b) is deducted, to fund the administrative costs of the bureau of emergency management of the department associated with administering the trauma program, the state emergency medical services program, and the account and to fund the costs of monitoring and providing technical assistance for those programs and that account.

Sec. 780.005. CONTROL OF EXPENDITURES FROM THE ACCOUNT. Money distributed under Section 780.004 shall be used in compliance with Section 780.004 on the authorization of the executive committee of the trauma service area regional advisory council.

Sec. 780.006. LOSS OF FUNDING ELIGIBILITY. For a period of not less than one year or more than three years, as determined by the commissioner, the department may not disburse money under Section 780.004 to a county, municipality, or local recipient that the commissioner finds used money in violation of that section.

SECTION 5.03. Not later than December 1, 2004, the Texas Department of Health shall submit to the lieutenant governor and the speaker of the house of representatives a report concerning the use of money under Chapter 780, Health and Safety Code, as added by

1 this article, and any recommended changes to law to ensure
2 appropriate funding and coordination of services.

3 ARTICLE 6. RAIL FACILITIES

4 SECTION 6.01. The legislature finds that:

5 (1) the transportation of materials, products, and
6 people is essential to the continued economic vitality of this
7 state;

8 (2) the state contains many industries that are
9 heavily dependent on rail transportation for the movement of
10 materials and products;

11 (3) the rail transportation system in some areas of
12 this state is adversely affected by abandonment and discontinuance
13 proceedings that cause the cessation of rail service to those
14 areas;

15 (4) materials and products that cannot be transported
16 by rail are typically transported by truck over state highways and
17 local roads and bridges, thereby contributing to increased
18 congestion and roadway maintenance costs, decreased safety for the
19 traveling public, and a decrease in the expected life of those
20 roadways;

21 (5) the provision of passenger rail facilities and
22 systems will contribute to reducing the number of persons traveling
23 over state highways and local roads and bridges, thereby resulting
24 in decreased congestion and improved safety and air quality; and

25 (6) it is in the interest of all citizens of this state
26 that rail facilities and systems be part of a comprehensive state
27 transportation system to provide for the most efficient and

1 economical movement of essential materials and products to local,
2 national, and export markets and to provide for improved mobility
3 on, and the increased reliability of, the state's transportation
4 system.

5 SECTION 6.02. Title 5, Transportation Code, is amended by
6 adding Subtitle A to read as follows:

7 SUBTITLE A. TEXAS DEPARTMENT OF TRANSPORTATION

8 CHAPTER 91. RAIL FACILITIES

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 91.001. DEFINITIONS. In this chapter:

11 (1) "Commission" means the Texas Transportation
12 Commission.

13 (2) "Construction" includes design, planning, and
14 preliminary studies.

15 (3) "Department" means the Texas Department of
16 Transportation.

17 (4) "Maintenance facility" includes:
18 (A) a workshop;
19 (B) a service, storage, security, or personnel
20 facility; and
21 (C) equipment for a facility described by
22 Paragraph (B).

23 (5) "Operation" includes policing.

24 (6) "Rail facility" means real or personal property,
25 or any interest in that property, that is determined to be necessary
26 or convenient for the provision of a freight or passenger rail
27 facility or system, including commuter rail, intercity rail, and

1 high-speed rail. The term includes all property or interests
2 necessary or convenient for the acquiring, providing, using, or
3 equipping of a rail facility or system, including rights-of-way,
4 rolling stock, trackwork, train controls, stations, and
5 maintenance facilities.

6 (7) "Revenue" includes a charge, toll, rent, payment,
7 user fee, franchise fee, license fee, fare, tariff, and other
8 consideration:

9 (A) received in return for the use of:

10 (i) a rail facility; or

11 (ii) a service offered in connection with
12 the operation of a rail facility; or

13 (B) resulting from a sale or conveyance of a rail
14 facility.

15 (8) "Right-of-way" means a strip of land of a length
16 and width determined by the commission to be required, necessary,
17 or convenient for the provision of a rail facility or system and the
18 space over, under, or on the land where trackwork is to be located.

19 (9) "Station" means a passenger or freight service
20 building, terminal, station, ticketing facility, waiting area,
21 platform, concession, elevator, escalator, facility for
22 handicapped access, access road, parking facility for passengers,
23 baggage handling facility, or local maintenance facility, together
24 with any interest in real property necessary or convenient for
25 those items.

26 (10) "Surplus revenue" means:

27 (A) revenue that exceeds the department's debt

1 service requirements, coverage requirements of any bond indenture,
2 costs of operation and maintenance, and cost of expansion or
3 improvement of a rail facility or system; and

4 (B) reserves and reserve funds maintained by the
5 department.

6 (11) "Trackwork" means track, track beds, track bed
7 preparation, ties, rail fasteners, slabs, rails, emergency
8 crossovers, setout tracks, storage tracks, drains, fences,
9 ballast, switches, bridges, and structures.

10 (12) "Train controls" includes:

11 (A) signals, lights, and other signaling;

12 (B) interlocking equipment;

13 (C) speed monitoring equipment;

14 (D) braking systems;

15 (E) central traffic control facilities; and

16 (F) communication systems.

17 Sec. 91.002. PUBLIC PURPOSE. The following functions are
18 public and governmental functions, exercised for a public purpose,
19 and matters of public necessity:

20 (1) the acquisition, financing, construction,
21 operation, and maintenance of a rail facility under this chapter;

22 (2) the sale, lease, or license of a rail facility to a
23 rail operator and other public or private persons under this
24 chapter; and

25 (3) the exercise of any other power granted under this
26 chapter to the commission and the department.

27 Sec. 91.003. CHAPTER LIBERALLY CONSTRUED. This chapter

1 shall be liberally construed to effect its purposes.

2 Sec. 91.004. RULES. The commission may adopt rules and the
3 department may adopt procedures and prescribe forms necessary to
4 implement this chapter.

5 Sec. 91.005. GENERAL POWERS. The department may:

6 (1) plan and make policies for the location,
7 construction, maintenance, and operation of a rail facility or
8 system in this state;

9 (2) acquire, finance, construct, maintain, and
10 operate a passenger or freight rail facility, individually or as
11 one or more systems;

12 (3) for the purpose of acquiring or financing a rail
13 facility or system, accept a grant or loan from a:

14 (A) department or agency of the United States;

15 (B) department, agency, or political subdivision
16 of this state; or

17 (C) public or private person;

18 (4) contract with a public or private person to
19 finance, construct, maintain, or operate a rail facility under this
20 chapter; or

21 (5) perform any act necessary to the full exercise of
22 the department's powers under this chapter.

23 Sec. 91.006. RELIANCE ON PRIVATE ENTITIES. The department
24 shall contract with a private entity to operate a railroad using
25 facilities owned by the department and may not use department
26 employees to operate a railroad. The department may maintain a
27 railroad facility directly or through a private entity.

1 Sec. 91.007. COOPERATION OF STATE AGENCIES AND POLITICAL
2 SUBDIVISIONS. Within available resources, an agency or political
3 subdivision of this state shall cooperate with and assist the
4 department in exercising its powers and duties under this chapter.

5 Sec. 91.008. NOTIFICATION OF INTENT TO ABANDON OR
6 DISCONTINUE SERVICE. On receipt of notice of intent to abandon or
7 discontinue rail service served under 49 C.F.R. Section 1152.20, as
8 amended, the department shall coordinate with the governing body of
9 a municipality, county, or rural rail transportation district in
10 which all or a segment of the line is located to determine whether:

11 (1) the department should acquire the rail facility to
12 which the notice relates; or

13 (2) any other actions should be taken to provide for
14 continued rail transportation service.

15 [Sections 91.009–91.030 reserved for expansion]

16 SUBCHAPTER B. ACQUISITION AND DEVELOPMENT OF RAIL FACILITIES

17 Sec. 91.031. ESTABLISHMENT OF RAIL SYSTEMS. (a) If the
18 commission determines that the provision of rail transportation
19 services would be most efficiently and economically met by jointly
20 operating two or more rail facilities as one operational and
21 financial enterprise, it may create a system composed of those
22 facilities.

23 (b) The commission may create more than one system and may
24 combine two or more systems into one system.

25 (c) The department may finance, acquire, construct, and
26 operate additional rail facilities as additions to and expansions
27 of the system if the commission determines that the facility would

1 most efficiently and economically be acquired and constructed if it
2 were a part of the system and that the addition will benefit the
3 system.

4 (d) The revenue of a system shall be accounted for
5 separately and may not be commingled with the revenue of a rail
6 facility that is not part of the system.

7 Sec. 91.032. ACQUISITION OF RAIL FACILITIES. (a) The
8 commission may authorize the department to acquire an existing rail
9 facility at a location and on a route the commission determines to
10 be feasible and viable for rail transportation service.

11 (b) The department may enter into an agreement with the
12 owner of an operating railroad for the acquisition or use of a rail
13 facility on terms the department considers to be in the best
14 interest of the state.

15 (c) The department may acquire rolling stock or other
16 personal property under:

17 (1) conditional sales contracts;

18 (2) leases;

19 (3) equipment trust certificates; or

20 (4) any other form of contract or trust agreement.

21 Sec. 91.033. ENVIRONMENTAL REVIEW. (a) The department
22 shall conduct or approve all environmental evaluations or studies
23 required for the construction, maintenance, or operation of a rail
24 facility.

25 (b) The commission may adopt rules to allocate
26 responsibility for conducting an environmental evaluation or study
27 or preparing environmental documentation among entities involved

1 in the construction, maintenance, or operation of a rail facility
2 under this chapter.

3 Sec. 91.034. ENVIRONMENTAL MITIGATION. (a) The department
4 may acquire, maintain, hold, restore, enhance, develop, or
5 redevelop property for the purpose of mitigating a past, present,
6 or future adverse environmental effect arising from the
7 construction, maintenance, or operation of a rail facility without
8 regard to whether the need for mitigation has already been
9 established for a particular project.

10 (b) The department may contract with a governmental or
11 private entity to maintain, control, hold, restore, enhance,
12 develop, or redevelop property for the mitigation of a past,
13 present, or future adverse environmental effect arising from the
14 construction, maintenance, or operation of a rail facility without
15 regard to whether the need for mitigation has already been
16 established for a particular project.

17 (c) If authorized by the applicable regulatory authority,
18 the department may pay an amount of money to an appropriate
19 governmental or private entity instead of acquiring or managing
20 property for the mitigation of a past, present, or future adverse
21 environmental effect arising from construction, maintenance, or
22 operation of a rail facility without regard to whether the need for
23 mitigation has already been established for a particular project.

24 Sec. 91.035. USE OF FACILITIES BELONGING TO PUBLIC OR
25 PRIVATE ENTITY. The department, for the purpose of acquiring,
26 constructing, maintaining, and operating freight or passenger rail
27 facilities and systems in this state, may:

1 (1) use a street, alley, road, highway, or other
2 public way of a municipality, county, or other political
3 subdivision with the consent of that political subdivision; and

4 (2) at the expense of the department, relocate, raise,
5 reroute, or change the grade of the construction of a street, alley,
6 highway, road, railroad, electric line and facility, telegraph and
7 telephone property and facility, pipeline and facility, conduit and
8 facility, and other properties, whether publicly or privately
9 owned, as necessary or useful in the construction, maintenance, and
10 operation of a rail facility or system.

11 Sec. 91.036. EXPENDITURE OF FUNDS. The department may
12 receive, accept, and expend funds from this state, a federal
13 agency, or other public or private source for:

14 (1) rail planning;

15 (2) studies to determine the viability of a rail
16 facility for rail transportation service;

17 (3) studies to determine the necessity for the
18 department's acquisition or construction of a rail facility; and

19 (4) the acquisition, construction, maintenance, or
20 operation of a rail facility under this chapter, including the
21 assessment and remediation of environmental contamination existing
22 in or on a rail facility.

23 [Sections 91.037-91.050 reserved for expansion]

24 SUBCHAPTER C. CONTRACTS

25 Sec. 91.051. AWARDING OF CONTRACTS. Unless otherwise
26 provided by this subchapter, a contract made by the department for
27 the construction, maintenance, or operation of a rail facility must

1 be let by a competitive bidding procedure in which the contract is
2 awarded to the lowest responsible bidder that complies with the
3 department's criteria.

4 Sec. 91.052. AGREEMENTS TO CONSTRUCT, MAINTAIN, AND OPERATE
5 RAIL FACILITIES. The department may enter into an agreement with a
6 public entity, including a political subdivision of this state, to
7 permit the entity, independently or jointly with the department, to
8 acquire, construct, maintain, or operate a rail facility or system.

9 Sec. 91.053. EXCLUSIVE DEVELOPMENT AGREEMENTS. (a) The
10 department may enter into an exclusive development agreement with a
11 private entity to construct, maintain, or operate a rail facility
12 or system. An exclusive development agreement may provide for:

13 (1) the lease of rights-of-way, the granting of
14 easements, or the issuance of franchises, concessions, licences, or
15 permits that are necessary to enable a private entity to construct,
16 maintain, or operate a rail facility or system; or

17 (2) the design, construction, maintenance, and
18 operation of a rail facility in any combination.

19 (b) The department, when contracting with a private entity
20 under this section, shall use a competitive procurement process
21 that provides the best value for the department, including
22 contracting through the issuance of requests for proposals. The
23 department shall publish in the request for bids, proposals, or
24 qualifications the criteria that will be used to evaluate the
25 bidders and the relative weight given to the criteria. The
26 department may accept unsolicited proposals for proposed projects
27 provided that the department issues a request for competing

proposals for those proposed projects accepted for further evaluation. The department may require that a solicited or unsolicited proposal be accompanied by a nonrefundable fee sufficient to cover the department's cost to review the proposal.

(c) The department has broad discretion to negotiate provisions in an exclusive development agreement with a private entity. The provisions may relate to:

(1) professional and consulting services to be rendered in connection with a rail facility or system; and

(2) the construction, maintenance, and operation of a rail facility or system, including provisions for combining those services.

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

(e) The department shall prescribe the form of an exclusive development agreement and may include any matter the department considers advantageous to the state.

(f) Section 91.051 does not apply to an agreement entered into under this section.

Sec. 91.054. PAYMENT FOR WORK PRODUCT. (a) The department may pay an unsuccessful private entity that submits a response to a request for proposals a stipulated amount of the final contract price for costs incurred in preparing that proposal. 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

1 department in the performance of its functions.

2 (b) After payment of the stipulated amount, the department
3 may make use of any work product contained in the proposal,
4 including the work product contained in the project design.

5 Sec. 91.055. LIABILITY FOR PRIVATE OBLIGATIONS. The
6 department may not incur a financial obligation on behalf of, or
7 otherwise guarantee the obligations of, a private entity that
8 constructs, maintains, or operates a rail facility or system.

9 Sec. 91.056. INFORMATION RELATED TO PROPOSALS. Until a
10 final contract is executed with respect to a proposed project, the
11 following information is confidential, is not subject to
12 disclosure, inspection, or copying under Chapter 552, Government
13 Code, and is not subject to disclosure, discovery, subpoena, or
14 other means of legal compulsion for its release:

15 (1) all or any part of a proposal submitted by a
16 private entity for a project under an exclusive development
17 agreement;

18 (2) any supplemental information or materials
19 submitted by a private entity in connection with a proposal for a
20 project under an exclusive development agreement; and

21 (3) any information created or collected by the
22 department or its agents during consideration of a proposal for a
23 project under an exclusive development agreement.

24 Sec. 91.057. PERFORMANCE AND PAYMENT SECURITY. (a)
25 Notwithstanding the requirements of Subchapter B, Chapter 2253,
26 Government Code, the department shall require a private entity
27 entering into an exclusive development agreement under Section

1 91.053 to provide performance and payment bonds or alternative
2 forms of security in an amount sufficient to:

3 (1) adequately protect the department and ensure the
4 proper performance of the agreement; and

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

8 (b) The performance and payment bonds or alternative forms
9 of security shall be in an amount equal to the cost of constructing
10 the project unless the department determines that it is
11 impracticable for the private entity to provide security in that
12 amount, in which case the department shall set the amount of the
13 bonds or the alternative forms of security. The amount of the
14 payment security may not be less than the amount of the performance
15 security.

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

20 (d) In addition to performance and payment bonds, the
21 department may require the following alternative forms of security:

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

24 (2) United States bonds or notes;

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

26 (4) any other form of security determined suitable by
27 the department.

1 (e) The commission by rule shall prescribe requirements for
2 alternative forms of security provided under this section.

3 Sec. 91.058. SMALL AND DISADVANTAGED BUSINESSES. (a) The
4 department shall:

5 (1) set goals for the award of contracts to small and
6 disadvantaged businesses and attempt to meet the goals;

7 (2) attempt to identify small and disadvantaged
8 businesses that provide or have the potential to provide supplies,
9 materials, equipment, or services to the department; and

10 (3) give small and disadvantaged businesses full
11 access to the department's contract bidding process and other
12 contracting processes, inform the businesses about those
13 processes, offer the businesses assistance concerning those
14 processes, and identify barriers to the businesses' participation
15 in those processes.

16 (b) This section does not exempt the department from
17 competitive bidding requirements imposed by other law.

18 [Sections 91.059–91.070 reserved for expansion]

19 SUBCHAPTER D. FINANCING OF RAIL FACILITIES

20 Sec. 91.071. PERMISSIBLE SOURCES OF FUNDING. The
21 department may use any legally permissible source of funding in
22 acquiring, constructing, maintaining, and operating a rail
23 facility or system, including:

24 (1) appropriations from the state highway fund that
25 are not dedicated under Section 7-a, Article VIII, Texas
26 Constitution;

27 (2) proceeds from bonds secured by the Texas Mobility

1 Fund;

2 (3) donations, whether in kind or in cash; and

3 (4) loans from the state infrastructure bank.

4 Sec. 91.072. REVENUE BONDS. (a) The commission may
5 authorize the issuance of bonds to:

6 (1) pay all or part of the cost of acquiring,
7 constructing, maintaining, or operating a rail facility or system;
8 or

9 (2) refund any bonds previously issued for the
10 facility or system.

11 (b) Chapters 1201, 1202, 1204, 1207, and 1371, Government
12 Code, apply to bonds issued by the commission. To the extent there
13 is a conflict between those laws and this chapter, the provisions of
14 this chapter prevail.

15 Sec. 91.073. PAYMENT OF BONDS. The principal of, interest
16 on, and any redemption premium on bonds issued by the commission
17 under this chapter are payable solely from:

18 (1) the revenue of the rail facility or system for
19 which the bonds are issued, including revenue pledged to pay the
20 bonds;

21 (2) money received under Section 91.075;

22 (3) money derived from any other source available to
23 the department under this chapter, other than money derived from a
24 rail facility that is not part of the same system, except that
25 surplus revenue derived from one rail facility or system may be used
26 for another; and

27 (4) amounts received under a credit agreement relating

1 to the rail facility or system for which the bonds are issued.

2 Sec. 91.074. STATE CREDIT NOT PLEDGED. (a) Bonds issued
3 under this chapter do not constitute a debt of the state or a pledge
4 of the faith and credit of the state. Each bond must contain on its
5 face a statement to the effect that the state is not obligated to
6 pay the bond or the interest on the bond from a source other than the
7 amount pledged to pay the bond and the interest on the bond, and
8 neither the faith and credit nor taxing power of the state is
9 pledged to the payment of the principal of or interest on the bond.

10 (b) The commission and the department may not incur
11 financial obligations under this chapter that cannot be paid from
12 revenue derived from owning or operating the department's rail
13 facilities and systems and from other revenue provided by law.

14 Sec. 91.075. GRANTS AND LOANS. The department may apply
15 for, accept, and expend money from grants, loans, or reimbursements
16 for any purpose of this chapter, including paying for the cost of
17 the acquisition, construction, maintenance, and operation of a rail
18 facility or system.

19 Sec. 91.076. REVENUE. (a) The department may require a
20 person, including any public or private entity, to pay a fee as a
21 condition of using any part of a rail facility or system.

22 (b) The department shall establish and maintain rents or
23 other compensation for the use of rail facilities or systems in an
24 amount that is, together with other revenue of the department
25 received under this chapter, sufficient to enable the department to
26 comply with the requirements of Section 91.073.

27 (c) The department may contract with a person for the use of

1 all or part of a rail facility or system or may lease or sell all or
2 part of a rail facility or system, including all or any part of the
3 right-of-way adjoining trackwork, for any purpose, including
4 placing on the adjoining right-of-way a storage or transfer
5 facility, warehouse, garage, parking facility, telecommunication
6 line or facility, restaurant, or gas station.

7 (d) All revenue received by the department under this
8 chapter:

9 (1) shall be deposited to the credit of the state
10 highway fund and may be used for any purpose authorized by this
11 chapter; and

12 (2) is exempt from the application of Section 403.095,
13 Government Code.

14 [Sections 91.077–91.090 reserved for expansion]

15 SUBCHAPTER E. ACQUISITION AND DISPOSAL OF PROPERTY

16 Sec. 91.091. ACQUISITION OF REAL PROPERTY. (a) The
17 commission may authorize the department to acquire in the name of
18 the state a right-of-way, a property right, or other interest in
19 real property determined to be necessary or convenient for the
20 department's acquisition, construction, maintenance, or operation
21 of rail facilities.

22 (b) The commission may authorize the department to acquire
23 property by any method, including purchase and condemnation.
24 Property may be purchased under any terms determined by the
25 department to be in the best interest of the state.

26 (c) Property may be purchased along alternative potential
27 routes for a rail facility even if only one of those potential

1 routes will ultimately be chosen as the final route.

2 Sec. 91.092. PROPERTY NECESSARY OR CONVENIENT FOR RAIL
3 FACILITIES. Property necessary or convenient for the department's
4 acquisition, construction, maintenance, or operation of rail
5 facilities includes an interest in real property or a property
6 right the commission determines is necessary or convenient to
7 provide:

8 (1) right-of-way for a location for:

9 (A) a rail facility; or

10 (B) the future expansion of a rail facility;

11 (2) land for mitigation of adverse environmental
12 effects;

13 (3) buffer zones for scenic or safety purposes; and

14 (4) revenue for use in acquiring, constructing,
15 maintaining, or operating a rail facility or system, including
16 revenue received under a contract described by Section 91.076(c).

17 Sec. 91.093. RIGHT OF ENTRY. (a) To acquire property
18 necessary or convenient for a rail facility, the department may
19 enter any premises or real property, including a body of water, to
20 make a survey, geotechnical evaluation, sounding, or examination.

21 (b) An entry under Subsection (a) is not:

22 (1) a trespass; or

23 (2) an entry under a pending condemnation procedure.

24 (c) The department shall make reimbursements for actual
25 damages that result from an entry under Subsection (a).

26 Sec. 91.094. CONVEYANCE OF PROPERTY BELONGING TO POLITICAL
27 SUBDIVISION OR PUBLIC AGENCY. The governing body of a

1 municipality, county, political subdivision, or public agency may,
2 without advertisement, convey the title to or a right in property
3 determined to be necessary or convenient by the department under
4 this subchapter.

5 Sec. 91.095. DISPOSAL OF PROPERTY. The department may
6 sell, convey, or otherwise dispose of any rights or other interests
7 in real property acquired under this subchapter that the commission
8 determines are no longer needed for department purposes.

9 [Sections 91.096–91.100 reserved for expansion]

10 SUBCHAPTER F. OPERATION AND USE OF RAIL FACILITIES

11 Sec. 91.101. CONTRACTS FOR RAIL TRANSPORTATION
12 SERVICES. The department may contract with a county or other
13 political subdivision of the state for the department to provide
14 rail transportation services on terms agreed to by the parties.

15 Sec. 91.102. CONTRACTS WITH RAIL OPERATORS. (a) The
16 department may lease all or part of a rail facility or system to a
17 rail operator. The department may contract with a rail operator for
18 the use or operation of all or part of a rail facility or system.

19 (b) The department shall encourage to the maximum extent
20 practical the participation of private enterprise in the operation
21 of rail facilities and systems.

22 (c) A lease agreement shall provide for the department's
23 monitoring of a rail operator's service and performance.

24 (d) The department may enter into an agreement with a rail
25 operator to sell all or any part of state-owned rail facilities on
26 terms the department considers to be in the best interest of the
27 state.

1 Sec. 91.103. JOINT USE OF RAIL FACILITIES. The department
2 may:

3 (1) enter into an agreement with a rail operator,
4 public utility, private utility, communication system, common
5 carrier, or transportation system for the common use of its
6 facilities, installations, or properties; and

7 (2) establish through routes, joint fares, and,
8 subject to approval of a tariff-regulating body having
9 jurisdiction, divisions of tariffs.

10 Sec. 91.104. ROUTINGS. The department may determine
11 routings for rail facilities acquired, constructed, or operated by
12 the department under this chapter.

13 Sec. 91.105. PLACEMENT OF UTILITY FACILITIES, LINES, AND
14 EQUIPMENT. (a) A utility has the same right to place its
15 facilities, lines, or equipment in, over, or across right-of-way
16 that is part of a state-owned rail facility as the utility has with
17 respect to the right-of-way of a state highway under Chapter 181,
18 Utilities Code. A utility shall notify the department of the
19 utility's intention to exercise authority over right-of-way that is
20 part of state-owned rail facilities.

21 (b) On receipt of notice under Subsection (a), the
22 department may designate the location in the right-of-way where the
23 utility may place its facilities, lines, or equipment.

24 (c) The department may require a utility to relocate the
25 utility's facilities, lines, or equipment, at the utility's
26 expense, to allow for the expansion or relocation of rail
27 facilities owned by the state. The department shall pay for the

1 cost of the relocation if the utility acquired an easement or a
2 leasehold interest in the real property occupied by the facility to
3 be relocated before the department acquired the right-of-way under
4 this chapter.

5 (d) A utility may use and operate a facility required to be
6 relocated under this section at the new location for the same period
7 and on the same terms as the utility had the right to do at the
8 previous location of the facility.

9 SECTION 6.03. Section 2, Chapter 1244, Acts of the 77th
10 Legislature, Regular Session, 2001 (Article 6550c-2, Vernon's
11 Texas Civil Statutes), is repealed.

12 SECTION 6.04. This article takes effect immediately if this
13 Act receives a vote of two-thirds of all the members elected to each
14 house, as provided by Section 39, Article III, Texas Constitution.
15 If this Act does not receive the vote necessary for immediate
16 effect, this article takes effect September 1, 2003.

17 ARTICLE 7. DISPOSITION OF DEPARTMENT OF PUBLIC SAFETY FEES

18 SECTION 7.01. Subchapter C, Chapter 521, Transportation
19 Code, is amended by adding Section 521.058 to read as follows:

20 Sec. 521.058. DISPOSITION OF FEES. Each fee collected
21 under this subchapter shall be deposited to the credit of the Texas
22 mobility fund.

23 SECTION 7.02. Section 521.313, Transportation Code, is
24 amended by adding Subsection (c) to read as follows:

25 (c) Each fee collected under this section shall be deposited
26 to the credit of the Texas mobility fund.

27 SECTION 7.03. Section 521.3466, Transportation Code, is

1 amended by adding Subsection (e) to read as follows:

2 (e) Each fee collected under this section shall be deposited
3 to the credit of the Texas mobility fund.

4 SECTION 7.04. Subchapter R, Chapter 521, Transportation
5 Code, is amended by adding Section 521.427 to read as follows:

6 Sec. 521.427. DISPOSITION OF FEES. (a) Except as provided
7 by Subsection (b), each fee collected under this subchapter shall
8 be deposited to the credit of the Texas mobility fund.

9 (b) Subsection (a) does not apply to:

10 (1) the portion of a fee collected under Section
11 521.421(b) or Section 521.421(f), as added by Chapter 1156, Acts of
12 the 75th Legislature, Regular Session, 1997, that is required by
13 Section 662.011 to be deposited to the credit of the motorcycle
14 education fund account;

15 (2) a fee collected under Section 521.421(f), as added
16 by Chapter 510, Acts of the 75th Legislature, Regular Session,
17 1997;

18 (3) a fee collected under Section 521.421(g); or

19 (4) a fee collected under Section 521.422(b) or (c).

20 SECTION 7.05. Section 522.029, Transportation Code, is
21 amended by adding Subsection (i) to read as follows:

22 (i) Except as provided by Section 662.011, each fee
23 collected under this section shall be deposited to the credit of the
24 Texas mobility fund.

25 SECTION 7.06. Section 524.051, Transportation Code, is
26 amended by adding Subsection (c) to read as follows:

27 (c) Each fee collected under this section shall be deposited

1 to the credit of the Texas mobility fund.

2 SECTION 7.07. Subchapter H, Chapter 548, Transportation
3 Code, is amended by adding Section 548.508 to read as follows:

4 Sec. 548.508. DISPOSITION OF FEES. Except as provided by
5 Section 382.0622, Health and Safety Code, and Section 548.5055,
6 each fee collected by the department under this subchapter shall be
7 deposited to the credit of the Texas mobility fund.

8 SECTION 7.08. Section 644.153, Transportation Code, is
9 amended by adding Subsection (i) to read as follows:

10 (i) Each penalty collected under this section shall be
11 deposited to the credit of the Texas mobility fund.

12 SECTION 7.09. Section 724.046, Transportation Code, is
13 amended by adding Subsection (c) to read as follows:

14 (c) Each fee collected under this section shall be deposited
15 to the credit of the Texas mobility fund.

16 SECTION 7.10. Section 521.055(d), Transportation Code, is
17 repealed.

18 SECTION 7.11. This article applies only to a fee or penalty
19 collected on or after the effective date of this Act.

20 ARTICLE 8. ISSUANCE OF BONDS AND OTHER PUBLIC SECURITIES

21 SECTION 8.01. Subchapter A, Chapter 222, Transportation
22 Code, is amended by adding Section 222.003 to read as follows:

23 Sec. 222.003. ISSUANCE OF BONDS SECURED BY STATE HIGHWAY
24 FUND. (a) The commission may issue bonds and other public
25 securities secured by a pledge of and payable from revenue
26 deposited to the credit of the state highway fund.

27 (b) The aggregate principal amount of the bonds and other

1 public securities that are issued may not exceed \$5 billion. The
2 commission may only issue bonds or other public securities in an
3 aggregate principal amount of not more than \$1 billion each year.

4 (c) Proceeds from the sale of bonds and other public
5 securities issued under this section shall be used to fund state
6 highway improvement projects. Of the aggregate principal amount of
7 bonds and other public securities that may be issued under this
8 section, at least 20 percent of the proceeds from the bonds or other
9 public securities shall be used to fund highway safety improvement
10 projects that correct or improve hazardous locations on the state
11 highway system, as determined by the commission.

12 (d) The commission by rule shall prescribe criteria for
13 selecting highway safety improvement projects eligible for funding
14 under this section. In establishing these criteria, the commission
15 shall consider accident data, traffic volume, pavement geometry,
16 and other conditions that can create or exacerbate hazardous
17 roadway conditions.

18 (e) The proceeds of bonds and other public securities issued
19 under this section may not be used for any purpose other than any
20 costs related to the bonds and other public securities and the
21 purposes for which revenues are dedicated under Section 7-a,
22 Article VIII, Texas Constitution. The proceeds of bonds and other
23 public securities issued under this section may not be used for the
24 construction of a state highway or other facility on the
25 Trans-Texas Corridor. For purposes of this section, the
26 "Trans-Texas Corridor" means the statewide system of multimodal
27 facilities under the jurisdiction of the department that is

1 designated by the commission, notwithstanding the name given to
2 that corridor.

3 (f) The commission may enter into bond enhancement
4 agreements relating to the bonds and other public securities
5 authorized by this section. The agreements may be secured by and
6 payable from the same sources as the bonds and other public
7 securities.

8 (g) All laws affecting the issuance of bonds and other
9 public securities by governmental entities, including Chapters
10 1201, 1202, 1204, 1207, 1231, and 1371, Government Code, apply to
11 the issuing of bonds and other public securities and the entering
12 into of bond enhancement agreements under this section.

13 (h) The proceeds of bonds and other public securities issued
14 under this section may be used to:

15 (1) finance other funds relating to the public
16 security, including debt service reserve and contingency; and

17 (2) pay the cost or expense of the issuance of the
18 public security.

19 (i) Bonds and other public securities and bond enhancement
20 agreements authorized by this section may not have a principal
21 amount or terms that, at the time the bonds or other public
22 securities are issued or the agreements entered into, are expected
23 by the commission to cause annual expenditures with respect to the
24 obligations to exceed 10 percent of the amount deposited to the
25 credit of the state highway fund in the immediately preceding year.

26 (j) Bonds and other public securities issued under this
27 section may be sold in such manner and subject to such terms and

1 provisions as set forth in the order authorizing their issuance,
2 and such bonds and other public securities must mature not later
3 than 20 years after their dates of issuance, subject to any
4 refundings or renewals.

5 (k) The comptroller shall withdraw from the state highway
6 fund and forward at the direction of the commission to another
7 person the amounts as determined by the commission to permit timely
8 payment of:

9 (1) the principal of and interest on the bonds and
10 other public securities that mature or become due; and

11 (2) any cost related to the bonds and other public
12 securities that become due, including payments under bond
13 enhancement agreements.

14 SECTION 8.02. This article takes effect on the date on which
15 the constitutional amendment proposed by the 78th Legislature,
16 Regular Session, 2003, that authorizes the legislature to provide
17 for the issuance of bonds and other public securities secured by the
18 state highway fund for highway improvement projects takes effect.
19 If that amendment is not approved by the voters, this article has no
20 effect.

21 ARTICLE 9. SHADOW TOLLS

22 SECTION 9.01. Subchapter E, Chapter 222, Transportation
23 Code, is amended by adding Section 222.104 to read as follows:

24 Sec. 222.104. SHADOW TOLLS. (a) In this section, "shadow
25 toll" means a per vehicle fee or a per vehicle mile fee that is
26 determined by the number of vehicles using a highway.

27 (b) The department may enter into an agreement with a public

1 or private entity that provides for the payment of shadow tolls to
2 the public or private entity as reimbursement for the construction,
3 maintenance, or operation of a toll or nontoll facility on the
4 state highway system by the public or private entity.

5 (c) The department may enter into an agreement with a public
6 or private entity that provides for the payment of shadow tolls to
7 the department as reimbursement for the department's construction,
8 maintenance, or operation of a toll or nontoll facility on the state
9 highway system that is financed by the public or private entity.

10 (d) The department may enter into an agreement with a
11 regional mobility authority, a regional tollway authority, or a
12 county acting under Chapter 284 that provides for:

13 (1) the payment of shadow tolls to the authority or
14 county as compensation for the payment of all or a portion of the
15 costs of maintaining a state highway or a portion of a state highway
16 converted to a toll facility of the authority or county that the
17 department estimates it would have incurred if the highway had not
18 been converted; or

19 (2) the payment by an authority or county of shadow
20 tolls to the department as reimbursement for all or a portion of the
21 costs incurred by the department to design, construct, and maintain
22 a state highway or a portion of a state highway converted to a toll
23 facility of the authority or county.

24 (e) The department or other public entity may use any
25 available funds for the purpose of making a shadow toll payment
26 under this section.

27 (f) The commission may adopt rules necessary to implement

1 this section. Rules adopted under this subsection may establish
2 criteria for:

3 (1) determining the amount of shadow tolls to be paid
4 under this section; and

5 (2) allocating the risk that traffic volume will be
6 higher or lower than the parties to an agreement under this section
7 anticipated in entering the agreement.

8 SECTION 9.02. This article takes effect immediately if this
9 Act receives a vote of two-thirds of all the members elected to each
10 house, as provided by Section 39, Article III, Texas Constitution.
11 If this Act does not receive the vote necessary for immediate
12 effect, this article takes effect September 1, 2003.

13 ARTICLE 10. TEXAS TURNPIKE AUTHORITY

14 SECTION 10.01. Section 201.112(a), Transportation Code, is
15 amended to read as follows:

16 (a) The commission may by rule establish procedures for the
17 informal resolution of a claim arising out of a contract described
18 by:

19 (1) Section 22.018;

20 (2) Chapter 223; ~~or~~

21 (3) Chapter 361; or

22 (4) Chapter 2254, Government Code.

23 SECTION 10.02. This article takes effect immediately if
24 this Act receives a vote of two-thirds of all the members elected to
25 each house, as provided by Section 39, Article III, Texas
26 Constitution. If this Act does not receive the vote necessary for
27 immediate effect, this article takes effect September 1, 2003.

ARTICLE 11. PROPERTY TRANSFER

SECTION 11.01. Section 201.103, Transportation Code, is amended to read as follows:

Sec. 201.103. COMPREHENSIVE SYSTEM OF HIGHWAYS AND ROADS.

(a) The commission shall plan and make policies for the location, construction, and maintenance of a comprehensive system of state highways and public roads.

(b) The commission shall designate as part of the state highway system a highway that it determines is necessary for the proper development and operation of the system. The commission may remove a segment of the state highway system that it determines is not needed for the system. In planning and making policies, the commission shall consider, for incorporation into the state highway system, turnpikes that other governmental or private entities are authorized to construct.

(c) The commission biennially shall submit a report of its work to the governor and the legislature. The report must include the recommendations of the commission and of the director.

(d) ~~[(b)]~~ The director, under the direction and with the approval of the commission, shall prepare a comprehensive plan providing a system of state highways.

SECTION 11.02. Section 202.021, Transportation Code, is amended to read as follows:

Sec. 202.021. REAL PROPERTY NO LONGER NEEDED. (a) The commission may recommend to the governor the sale or transfer of any interest in real property, including a highway right-of-way, that:

(1) was acquired for a highway purpose; and

1 (2) as determined by the commission, is no longer
2 needed for a state highway [~~that~~] purpose.

3 (b) Except as provided by Subsection (c), real property
4 shall be sold to the general public.

5 (c) A highway right-of-way [~~that is sold~~] shall be
6 transferred or sold with the following priorities:

7 (1) to a governmental entity with the authority to
8 condemn the property;

9 (2) to abutting or adjoining landowners; or

10 (3) [~~(2)~~] to the general public.

11 (d) [~~(c)~~] The commission shall:

12 (1) determine the fair value of the state's interest in
13 the real property; and

14 (2) if the value is \$10,000 or more, advise the
15 governor of the value.

16 (e) The commission may waive payment for real property
17 transferred to a governmental entity under this section if the
18 estimated cost of future maintenance on the property equals or
19 exceeds the fair value of the property.

20 (f) Any revenue [~~(d) Revenue~~] from the sale of property
21 under this subchapter shall be deposited to the credit of the state
22 highway fund.

23 (g) [~~(e)~~] The governor may execute a deed conveying the
24 state's interest in the property.

25 (h) If the commission determines that the value of the real
26 property is less than \$10,000, it may authorize the executive
27 director to execute a deed conveying the state's interest in the

property without a recommendation to the governor.

SECTION 11.03. Section 202.030(a), Transportation Code, is amended to read as follows:

(a) The attorney general must approve a transfer or conveyance that is made under this subchapter if the value of the real property transferred or conveyed is \$10,000 or more.

SECTION 11.04. Subchapter B, Chapter 202, Transportation Code, is amended by adding Section 202.033 to read as follows:

Sec. 202.033. TRANSFER OF HISTORIC BRIDGE. (a) In this section, "historic bridge" means a bridge that is included on or eligible to be included on the National Register of Historic Places.

(b) The department may transfer ownership of a historic bridge scheduled for replacement to a governmental entity or a responsible private entity. The entity that accepts ownership of the bridge:

(1) assumes all legal and financial responsibility for the bridge; and

(2) must maintain and preserve the bridge and its historic features.

(c) The following laws do not apply to a transfer under this section:

(1) Chapter 2175, Government Code;

(2) Section 202.030(a); and

(3) Section 202.031.

SECTION 11.05. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to

1 each house, as provided by Section 39, Article III, Texas
2 Constitution. If this Act does not receive the vote necessary for
3 immediate effect, this article takes effect September 1, 2003.

4 ARTICLE 12. MISCELLANEOUS PROVISIONS

5 SECTION 12.01. (a) The tertiary care account under Section
6 46.003, Health and Safety Code, is re-created as a dedicated
7 account in the general revenue fund.

8 (b) Subchapter D, Chapter 542, Transportation Code, is
9 amended by adding Section 542.4031 to read as follows:

10 Sec. 542.4031. ADDITIONAL COURT COST. (a) In addition to
11 other costs, including a cost under Section 542.403, a person
12 convicted of an offense under this subtitle shall pay \$30 as a court
13 cost.

14 (b) The officer who collects a cost under this section shall
15 send the cost to the comptroller. Of each \$30 court cost received
16 by the comptroller:

17 (1) \$20 shall be deposited to the credit of the general
18 revenue fund; and

19 (2) \$10 shall be deposited to the credit of the
20 tertiary care account under Section 46.003, Health and Safety Code.

21 (c) Article 45.0511, Code of Criminal Procedure, is amended
22 by adding Subsection (r) to read as follows:

23 (r) In addition to any other fee or special expense imposed
24 on a defendant under this section, the justice shall require the
25 defendant to pay \$30 as a court cost. The officer who collects the
26 cost required by this subsection shall send the cost to the
27 comptroller. Of each \$30 court cost received by the comptroller:

1 (1) \$20 shall be deposited to the credit of the general
2 revenue fund; and

3 (2) \$10 shall be deposited to the credit of the
4 tertiary care account under Section 46.003, Health and Safety Code.

5 (d) The change in law made by this section applies only to an
6 offense committed on or after the effective date of this section.
7 For the purposes of this section, an offense is committed before the
8 effective date of this section if any element of the offense occurs
9 before that date. An offense committed before the effective date of
10 this section is governed by the law in effect when the offense was
11 committed, and the former law is continued in effect for that
12 purpose.

13 ARTICLE 13. GENERAL PROVISIONS; EFFECTIVE DATE

14 SECTION 13.01. Money required to be deposited to a specific
15 fund or account by a change in law made by this Act is exempt from
16 Section 403.095, Government Code.

17 SECTION 13.02. Except as otherwise provided by this Act,
18 this Act takes effect September 1, 2003.