SENATE AMENDMENTS

2nd Printing

Engrossed Riders

H.B. 300

I certify that the attached committee substitute and the 166 floor amendments for H.B. No. 300 were adopted by the Texas House of Representatives during the bill's second reading consideration on May 7, 2009 and May 8, 2009, and the bill's third reading consideration on May 11, 2009. I further certify that, on May 8, 2009, the House suspended House Rule 2, Section1(a)(9) to permit H.B. No. 300 to be sent to the Senate in the form of engrossed riders in lieu of a full engrossment.

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Chief Clerk of the House

ENGROSSED RIDER NO. 1

ADOPTED As Amended
MAY 08 2009
Robert Haney
Chief Clerk
House of Representatives

By: Isett H.B. No. 300

Substitute the following for H.B. No. 300:

By: Pickett C.S.H.B. No. 300

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Department of Transportation, including the governance of the department and the transfer of certain functions of the department to the Texas Department of Motor Vehicles and the office of the governor; providing penalties.

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

ARTICLE 1. GENERAL COMMISSION AND DEPARTMENT PROVISIONS

SECTION 1.01. Sections 201.051(a), (b), (f), (g), (h), and (j), Transportation Code, are amended to read as follows:

(a) The Texas Transportation Commission consists of five members, of whom:

(1) three are appointed by the governor with the advice and consent of the senate;

(2) one is appointed by the governor with the advice and consent of the senate, selected from a list of individuals provided by the speaker of the house of representatives; and

(3) one is appointed by the lieutenant governor.

(b) The members shall be appointed to reflect the diverse geographic regions and population groups of this state. One member appointed by the governor under Subsection (a)(1) must reside in a rural area.

(f) An officer, employee, or paid consultant of a Texas trade association in the field of road construction or maintenance,

aviation, or outdoor advertising is not eligible for appointment as [~~or a Texas trade association of automobile dealers may not be~~] a member of the commission.

(g) The spouse of an officer, manager, or paid consultant of a Texas trade association in the field of road construction or maintenance, aviation, or outdoor advertising is not eligible for appointment as [~~or a Texas association of automobile dealers may not be~~] a member of the commission.

(h) A person required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department is not eligible for appointment [~~may not serve~~] as a member of the commission.

(j) In this section, "Texas trade association" means a [~~nonprofit,~~] cooperative[~~,~~] and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

SECTION 1.02. Section 201.053(a), Transportation Code, is amended to read as follows:

(a) The governor [~~periodically~~] shall designate one commissioner as the chair of the commission, who shall serve as presiding officer of the commission.

SECTION 1.03. Section 201.056, Transportation Code, is amended to read as follows:

Sec. 201.056. COMPENSATION. A member of the commission is

entitled to compensation as provided by the General Appropriations Act. [~~If compensation for members is not provided by that Act, each member is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member of the commission.~~]

SECTION 1.04. Section 201.057(a), Transportation Code, is amended to read as follows:

(a) It is a ground for removal from the commission if a commissioner:

(1) does not have at the time of taking office [~~appointment~~] or maintain during service on the commission the qualifications required by Section 201.051;

(2) violates a prohibition provided by Section 201.051;

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

(4) is absent from more than half of the regularly scheduled commission meetings that the commissioner is eligible to attend during a calendar year, unless the absence is excused by majority vote of the commission.

SECTION 1.05. Section 201.058, Transportation Code, is amended to read as follows:

Sec. 201.058. INFORMATION ON QUALIFICATIONS AND CONDUCT. The department shall provide to the members of the commission, as often as necessary, information concerning the members' qualifications for office [~~under Subchapter B~~] and their

responsibilities under applicable laws relating to standards of conduct for state officers.

SECTION 1.06. Section 201.105, Transportation Code, is amended by amending Subsections (a) and (b) and adding Subsections (h) and (i) to read as follows:

(a) The commission shall divide the state into [~~not more than 25~~] districts for the purpose of the performance of the department's duties.

(b) Except as provided in Subsection (h) [~~In determining a district's boundaries~~], the commission shall align the districts' boundaries along the boundaries of regional planning commissions created under Chapter 391, Local Government Code, and shall consider all costs and benefits, including highway activity in determining [~~and~~] the number of employees required for the proposed districts [~~district~~].

(h) In establishing district boundaries under Subsection (b), the commission may vary from the boundaries of a regional planning commission created under Chapter 391, Local Government Code, to the extent it determines necessary to avoid:

(1) significant adverse economic impact on local communities caused by the closing of one or more existing department offices;

(2) significant cost inefficiencies caused by the realignment of existing district boundaries; or

(3) significant disruptions to the existing workforce of one or more districts.

(i) If the commission varies from the boundaries of a

regional planning commission as authorized by Subsection (h), the commission shall send a report explaining the variances to:

(1) the Legislative Budget Board;

(2) the governor;

(3) the chair of the House Transportation Committee;

(4) the chair of the Senate Transportation and Homeland Security Committee;

(5) the chair of the Senate Finance Committee; and

(6) the chair of the House Appropriations Committee.

SECTION 1.07. Subchapter C, Chapter 201, Transportation Code, is amended by adding Sections 201.117 and 201.118 to read as follows:

Sec. 201.117. TECHNOLOGICAL SOLUTIONS. The commission shall implement a policy requiring the department to use appropriate technological solutions to improve the department's ability to perform its functions. The policy must ensure that the public is able to interact with the department on the Internet.

Sec. 201.118. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of department rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the department's jurisdiction.

(b) The department's procedures relating to alternative

dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the department.

SECTION 1.08. Sections 201.202(a) and (c), Transportation Code, are amended to read as follows:

(a) The commission shall organize the department into divisions to accomplish the department's functions and the duties assigned to it, including divisions for:

(1) aviation;

(2) highways and roads;

(3) public transportation; and

(4) rail transportation [~~motor vehicle titles and registration~~].

(c) A [~~In appointing a~~] person designated by the commission as the department's chief financial officer must report directly to the commission [~~to supervise a function previously performed by the former State Department of Highways and Public Transportation, Texas Department of Aviation, or Texas Turnpike Authority,~~

~~preference shall be given to a person employed in a similar position in that former agency~~].

SECTION 1.09. Section 201.204, Transportation Code, is amended to read as follows:

Sec. 201.204. SUNSET PROVISION. The Texas Department of Transportation is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2013 [~~2009~~].

SECTION 1.10. Subchapter D, Chapter 201, Transportation Code, is amended by adding Sections 201.210, 201.211, 201.212, and 201.213 to read as follows:

Sec. 201.210. COMPLIANCE CERTIFICATION. (a) Not later than September 1 of each year, each member of the commission, the director, and the department's chief financial officer shall certify in writing that the commission member, the director, or the officer, as applicable:

(1) is responsible for establishing and maintaining the department's internal controls;

(2) has evaluated the effectiveness of those controls;

(3) has presented conclusions about the effectiveness of the department's internal controls and applicable reporting requirements; and

(4) has effectively complied with all applicable legislative mandates.

(b) The members of the commission, the director, and the department's chief financial officer shall submit the certifications required by Subsection (a) to the governor, the

lieutenant governor, the speaker of the house of representatives, the chair of the standing committee of each house of the legislature with primary jurisdiction over transportation matters, and the transportation legislative oversight committee created under Chapter 205.

(c) The transportation legislative oversight committee shall recommend to the 82nd Legislature appropriate penalties for failure to submit the certifications required by Subsection (a). This subsection expires January 1, 2012.

Sec. 201.211. LEGISLATIVE LOBBYING. (a) In addition to the prohibition in Section 556.006, Government Code, a member of the commission or a department employee may not use money under the department's control or engage in an activity to influence the passage or defeat of legislation.

(b) A violation of Subsection (a) is grounds for dismissal of an employee.

(c) This section does not prohibit a member of the commission or department employee from using state resources to:

(1) provide public information or information responsive to a request; or

(2) communicate with officers and employees of the federal government in pursuit of federal appropriations.

Sec. 201.212. ETHICS AFFIRMATION AND HOTLINE. (a) A department employee shall annually affirm the employee's adherence to the ethics policy adopted under Section 572.051(c), Government Code.

(b) The department shall establish and operate a telephone

line to be known as the Ethics Hotline that enables a person to call the hotline number, anonymously or not anonymously, to report an alleged violation of the ethics policy adopted under Section 572.051(c), Government Code.

Sec. 201.213. LEGISLATIVE APPROPRIATIONS REQUEST. Department staff shall deliver the department's legislative appropriations request to the commission in an open meeting not later than the 30th day before the commission adopts the legislative appropriations request for submission to the Legislative Budget Board.

SECTION 1.11. Section 201.301(a), Transportation Code, is amended to read as follows:

(a) The commission shall elect an executive director for the department. [~~The director must be a registered professional engineer in this state and experienced and skilled in transportation planning, development, construction, and maintenance.~~]

SECTION 1.12. Section 201.404(b), Transportation Code, is amended to read as follows:

(b) The director or the director's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for department employees must be based on the system established under this subsection. If an annual performance evaluation indicates that an employee's performance is unsatisfactory, the commission and director shall consider whether the employee should be terminated. The annual performance evaluations developed under this subsection

must include the evaluation of an employee's:

(1) professionalism;

(2) diligence; and

(3) responsiveness to directives and requests from the commission and the legislature.

SECTION 1.13. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.6041 to read as follows:

Sec. 201.6041. DELEGATION OF ENVIRONMENTAL REVIEW TO LOCAL TOLL PROJECT ENTITY. (a) In this section, "local toll project entity" means:

(1) a county under Chapter 284;

(2) a regional tollway authority under Chapter 366; or

(3) a regional mobility authority under Chapter 370.

(b) To the extent permitted by law, the department shall, on request by a local toll project entity, delegate to the entity all responsibility for obtaining environmental review required for a project to be developed and constructed by the entity. If authority is delegated under this section:

(1) the local toll project entity's environmental documents, environmental studies, and public involvement activities must comply with state procedures;

(2) the local toll project entity must provide the environmental documentation to the department; and

(3) the environmental documents must meet the approval of the United States Department of Transportation, Federal Highway Administration, if the project requires the approval of that agency.

SECTION 1.14. Section 201.802, Transportation Code, is amended to read as follows:

Sec. 201.802. PUBLIC ACCESS TO COMMISSION [~~AND TO DEPARTMENT PROGRAMS~~]. [~~(a)~~] The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and speak on any issue under the jurisdiction of the department [~~commission~~].

[~~(b) The director shall prepare and maintain a written plan that describes the manner in which a person who does not speak English or who has a physical, mental, or developmental disability is provided reasonable access to the department's programs.~~

[~~(c) The department shall comply with each applicable law of the United States or this state that relates to program or facility accessibility.~~]

SECTION 1.15. Subchapter K, Chapter 201, Transportation Code, is amended by adding Section 201.910 to read as follows:

Sec. 201.910. MEMORIAL MARKERS FOR CERTAIN PEACE OFFICERS AND SPECIAL INVESTIGATORS KILLED IN LINE OF DUTY. (a) The commission by rule shall allow the placement, along state highway right-of-way, of privately funded memorials honoring peace officers and special investigators who were killed in the line of duty and were not troopers of the Department of Public Safety.

(b) The rules adopted under Subsection (a) must be substantially identical to commission rules relating to the placement of privately funded memorials honoring Department of Public Safety troopers killed in the line of duty.

(c) In this section:

(1) "Peace officer" has the meaning assigned by Article 2.12, Code of Criminal Procedure.

(2) "Special investigator" has the meaning assigned by Article 2.122, Code of Criminal Procedure.

SECTION 1.16. Section 201.0545, Transportation Code, is repealed.

SECTION 1.17. (a) Subtitle A, Title 6, Transportation Code, is amended by adding Chapter 205 to read as follows:

CHAPTER 205. TRANSPORTATION LEGISLATIVE OVERSIGHT COMMITTEE

Sec. 205.001. DEFINITION. In this chapter, "committee" means the Transportation Legislative Oversight Committee.

Sec. 205.002. ESTABLISHMENT; COMPOSITION. (a) The Transportation Legislative Oversight Committee is established to provide objective research, analysis, and recommendations on the operation and needs of the state transportation system.

(b) The committee is composed of six members as follows:

(1) the chair of the Senate Committee on Transportation and Homeland Security;

(2) the chair of the House Committee on Transportation;

(3) two members of the senate appointed by the lieutenant governor; and

(4) two members of the house of representatives appointed by the speaker of the house of representatives.

(c) An appointed member of the committee serves at the pleasure of the appointing official.

Sec. 205.003. PRESIDING OFFICER; TERM. (a) The lieutenant

governor and the speaker of the house of representatives shall appoint the presiding officer of the committee on an alternating basis.

(b) The presiding officer of the committee serves a two-year term that expires February 1 of each odd-numbered year.

Sec. 205.004. POWERS AND DUTIES. (a) The committee shall:

(1) monitor the department's planning, programming, and funding of the state transportation system;

(2) conduct an in-depth analysis of the state transportation system that includes:

(A) an assessment of the cost-effectiveness of the use of state, local, and private funds in the transportation system;

(B) an identification of critical problems in the transportation system, such as funding constraints; and

(C) a determination of the long-range needs of the transportation system;

(3) recommend to the legislature:

(A) strategies to solve the problems identified under Subdivision (2)(B); and

(B) policy priorities to address the long-range needs determined under Subdivision (2)(C); and

(4) advise and assist the legislature in developing plans, programs, and proposed legislation to improve the effectiveness of the state transportation system.

(b) The committee has all other powers and duties provided to a special committee by:

(1) Subchapter B, Chapter 301, Government Code;

(2) the rules of the senate and the house of representatives; and

(3) policies of the senate and house committees on administration.

(c) Notwithstanding any other provision of this chapter, the committee may not recommend specific projects or recommend funding for specific projects.

Sec. 205.005. REVIEW OF RESEARCH PROGRAM. (a) The department shall present the department's entire research program to the committee for review and comment before adopting or implementing the program.

(b) The committee shall review and comment on the department's research program, including each of the individual research projects and activities. The review of a proposed research project must take into consideration the purpose of the project, the proposed start and ending dates for the project, and the cost of the project.

(c) The department shall provide to the committee quarterly updates and an annual summary on the progress of the department's research projects and activities.

(d) The committee may request the results of any of the department's research projects, including draft reports from the department or the contracted entities performing the research.

(e) A university transportation research program in this state may:

(1) perform transportation research projects

requested by the committee; and

(2) initiate and propose transportation research projects to the committee.

(f) The committee may request assistance from a university transportation research program in this state in conducting transportation research and in reviewing, evaluating, and comparing elements of the state transportation system to the transportation systems in other states to set needed benchmarks.

Sec. 205.006. CONTRACT WITH CONSULTING FIRM. (a) The committee may contract with an outside management consulting firm that is independent of the department to make recommendations regarding an effective and efficient organizational structure for the department, such as recommending appropriate performance measurements and staffing levels for each major function of the department including comparisons to best practices, after review and analysis under Section 205.007.

(b) In performing its functions, the consulting firm shall coordinate with the Legislative Budget Board, the state auditor's office, and the department to minimize the duplication of efforts and to perform cost effectively and in a timely manner.

(c) The committee shall:

(1) oversee the implementation of the recommendations under this section with the goal of making the department more efficient, transparent, and accountable, including through reducing staff and streamlining processes; and

(2) assess the department's progress in implementing the recommendations under this section and report on the progress

to the Senate Finance Committee and House Appropriations Committee for consideration in establishing the department's budget as part of the appropriations process.

Sec. 205.007. FUNCTIONS OF CONSULTING FIRM. The primary functions of a management consulting firm the committee contracts with under Section 205.006 include:

(1) evaluating the department's financial condition and business practices;

(2) evaluating the department's administrative practices and performance, including statewide transportation planning, the department's relationship with metropolitan planning organizations, as defined by Section 472.031, the performance of the department's district and central offices, and the need for standardization of the department's operations across the state;

(3) evaluating the current guidelines of metropolitan planning organizations and all other transportation entities within the state involved with project delivery or transportation policy by identifying duplicative practices and providing recommendations for better efficiency and transparency;

(4) identifying ways to streamline all processes and procedures of policy implementations of the department, including the environmental process;

(5) examining and evaluating the use and benefits of performance-based maintenance contracting by the department;

(6) examining and presenting recommendations on how to maximize the department's use of multimodal solutions;

(7) analyzing the department's compliance with

applicable laws and legislative intent;

(8) examining the efficient use of the department's available funding, personnel, equipment, and office space;

(9) evaluating the establishment in statute of a state pavement quality goal of having 85 percent of state roads in good or better condition; and

(10) considering significantly expanding the use of the private sector for planning, design, and delivery of projects and a commitment to excellence in project and program management.

Sec. 205.008. MEETINGS. The committee shall meet at the call of the presiding officer.

Sec. 205.009. STAFF; AUTHORITY TO CONTRACT. The committee may hire staff or may contract with universities or other suitable entities to assist the committee in carrying out the committee's duties. Funding to support the operation of the committee shall be provided from funds appropriated to the department.

Sec. 205.010. REPORT. Not later than January 1 of each odd-numbered year, the committee shall submit to the legislature a report that contains the recommendations described by Section 205.004(a)(3).

(b) The speaker of the house of representatives and the lieutenant governor shall appoint members to the Transportation Legislative Oversight Committee under Chapter 205, Transportation Code, as added by this section, not later than January 1, 2010.

(c) Notwithstanding Section 205.003, Transportation Code, as added by this section, the lieutenant governor, not later than January 15, 2010, shall appoint a presiding officer for the

Transportation Legislative Oversight Committee. The presiding officer appointed by the lieutenant governor under this section serves a one-year term that begins on February 1, 2010, and ends on February 1, 2011.

(d) On the effective date of this Act:

(1) all employees of the Texas Department of Transportation who primarily perform duties related to the department's government and public affairs research section become employees of the Transportation Legislative Oversight Committee under Chapter 205, Transportation Code, as added by this section; and

(2) all funds appropriated by the legislature to the Texas Department of Transportation for purposes related to the department's government and public affairs research section are transferred to the Transportation Legislative Oversight Committee under Chapter 205, Transportation Code, as added by this section.

SECTION 1.18. Subchapter Z, Chapter 311, Transportation Code, is amended by adding Section 311.905 to read as follows:

Sec. 311.905. NOTICE OF TRANSPORTATION USER'S FEE BY MUNICIPALITY. (a) A municipality that imposes a fee on the user of a benefited property equal to the prorated annual cost of the transportation system owned by the municipality that can reasonably be attributed to the benefited property must provide notice to the department and the user of the fee.

(b) The notice to the department shall be given to the executive director by any commercially acceptable form of business communication. The notice to the user required under Subsection

(a) is adequate if the fee amount is stated on monthly billing statements to the user for metered utility service provided by the municipality to the user.

ARTICLE 2. TRANSPORTATION PLANNING AND PROJECT DEVELOPMENT PROCESS

SECTION 2.01. Section 201.601, Transportation Code, is amended to read as follows:

Sec. 201.601. STATEWIDE TRANSPORTATION PROGRAM AND BUDGET [~~PLAN~~]. [~~(a)~~] The department shall develop a statewide transportation program and budget under Subchapter H-1 [~~plan that contains all modes of transportation, including:~~

[~~(1) highways and turnpikes;~~

[~~(2) aviation;~~

[~~(3) mass transportation;~~

[~~(4) railroads and high-speed railroads; and~~

[~~(5) water traffic~~].

[~~(b) In developing the plan, the department shall seek opinions and assistance from other state agencies and political subdivisions that have responsibility for the modes of transportation listed by Subsection (a). As appropriate, the department and such an agency or political subdivision shall enter into a memorandum of understanding relating to the planning of transportation services.~~

[~~(c) The plan must include a component that is not financially constrained and identifies transportation improvements designed to relieve congestion. In developing this component of the plan, the department shall seek opinions and assistance from officials who have local responsibility for modes of transportation~~

~~listed in Subsection (a).~~

[~~(d) The plan shall include a component, published annually, that describes the evaluation of transportation improvements based on performance measures, such as indices measuring delay reductions or travel time improvements. The department shall consider the performance measures in selecting transportation improvements.~~]

SECTION 2.02. Chapter 201, Transportation Code, is amended by adding Subchapter H-1 to read as follows:

SUBCHAPTER H-1. STATEWIDE TRANSPORTATION PLANNING AND FUNDING ALLOCATION

Sec. 201.651. DEFINITIONS. In this subchapter:

(1) "Planning organization" means:

(A) a metropolitan planning organization;

(B) a rural planning organization; or

(C) for an area that is not in the boundaries of a metropolitan planning organization, the department district that serves the area.

(2) "Project cost" means the total cost of a transportation project, including all costs associated with:

(A) planning;

(B) design;

(C) environmental assessment;

(D) right-of-way acquisition;

(E) construction;

(F) operations;

(G) maintenance;

(H) overruns; and

(I) change orders.

(3) "Region" means the area for which a planning organization develops plans and receives funds under this subchapter.

(4) "Rural planning organization" means a planning organization created under Section 201.653.

(5) "Transportation official" means an official in a state agency or political subdivision who has responsibility for any of the following modes of transportation:

(A) aviation;

(B) high-speed rail;

(C) highways;

(D) toll roads;

(E) mass transportation;

(F) railroads; and

(G) water traffic.

(6) "Transportation project" means:

(A) the planning of, right-of-way acquisition for, expansion of, improvement of, addition to, routine maintenance of, contracted routine maintenance of, or contract maintenance of a:

(i) bridge;

(ii) highway;

(iii) toll road or toll road system; or

(iv) railroad;

(B) a project that enhances the safety of a

roadway to the traveling public;

(C) an air quality improvement initiative;

(D) a transportation enhancement activity under 23 U.S.C. Section 133; or

(E) mass transportation.

Sec. 201.652. PURPOSE. It is in the interest of this state to:

(1) encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development in rural and urbanized areas of this state, while minimizing transportation-related fuel consumption and air pollution through metropolitan, rural, and statewide transportation planning processes identified in this chapter; and

(2) encourage the continued improvement and evolution of the metropolitan, rural, and statewide transportation planning processes by planning organizations and public transit operators as guided by the planning factors identified in state and federal law.

Sec. 201.653. RURAL PLANNING ORGANIZATIONS. (a) To carry out the transportation planning process required by this subchapter, a rural planning organization may be created to serve an area that is located in the boundaries of a council of government and outside the boundaries of a metropolitan planning organization if the governing bodies of the units of local government in which at least 75 percent of the population of the area resides each adopt a resolution agreeing to the creation of the organization.

(b) A rural planning organization is governed by a board of directors composed of local elected officials and the district engineer of the department district in which the area is located.

(c) For a rural planning organization to be eligible to receive funds from this state for transportation projects under Section 201.668:

(1) at least 75 percent of the organization's board members must be elected officials who are elected within the boundaries of the rural planning organization; and

(2) only elected officials may be voting members of the organization's board.

(d) A rural planning organization may be dissolved by official action of its board.

(e) As soon as practicable after a rural planning organization is created or dissolved, the organization shall send notice of its creation or dissolution to the commission.

(f) The department may use money in the state highway fund to fund the operations of a rural planning organization, subject to Section 201.672(c).

(g) A rural planning organization shall develop transportation plans and programs for its service area in accordance with this subchapter.

(h) A rural planning organization may provide to the commission recommendations concerning the selection of transportation projects, systems, or programs to be undertaken in the boundaries of the rural planning organization.

(i) In this section, "elected official" means the presiding

officer or a member of the governing body of a municipality, a county judge, a county commissioner, a state representative, or a state senator.

(j) If the rural planning organization does not provide recommendations under Subsection (h), the department shall seek input from the rural planning organization, municipal and county officials, and transportation officials to determine the transportation projects, systems, or programs to be undertaken in the boundaries of the rural planning organization.

Sec. 201.654. CASH FLOW FORECAST. (a) On September 1 of each odd-numbered year, the department's chief financial officer shall issue a cash flow forecast for each method and category of funding that covers a period of not less than the 10 years following the date the forecast is issued.

(b) The forecast must identify all sources of funding available for transportation projects, including bond proceeds.

(c) The first two years of the forecast must be based on the appropriation of funds in the General Appropriations Act for the department for that biennium.

Sec. 201.655. ALLOCATION AND DEPOSIT OF FUNDING. (a) The commission shall use the cash flow forecast under Section 201.654 to allocate funding to the planning organizations in accordance with Section 201.668.

(b) The funds shall be deposited into subaccounts for each region in the state highway fund. The balance of the subaccount shall be carried forward from year to year for the benefit of the region.

Sec. 201.656. PLANNING ORGANIZATION 10-YEAR PLAN. (a) Each planning organization shall develop a 10-year transportation plan for the use of the funding allocated to the region.

(b) The first four years of the plan shall be developed to meet the transportation improvement plan requirements of 23 U.S.C. Section 135.

(c) The department shall compile the planning organizations' project selections to develop the statewide transportation plan in accordance with 23 U.S.C. Section 135.

Sec. 201.657. COORDINATION BETWEEN PLANNING ORGANIZATIONS TO DEVELOP LONG-TERM PLANNING ASSUMPTIONS. Planning organizations shall collaborate with one another and with the department to develop mutually acceptable assumptions for the purposes of long-range federal and state funding forecasts and use those assumptions to guide long-term planning.

Sec. 201.658. PLANNING ORGANIZATION PROJECT SELECTION AND PRIORITIZATION. (a) Each metropolitan planning organization and rural planning organization shall, for the area in its boundaries, select projects and order them in priority.

(b) For an area not located in the boundaries of a metropolitan planning organization or rural planning organization, the applicable department district shall:

(1) select projects and order them in priority with input from municipal and county officials and transportation officials; and

(2) submit the projects to the commission for final approval.

(c) A metropolitan planning organization or rural planning organization may delegate authority to select any category of projects and order them in priority to the applicable department district.

Sec. 201.659. PROCESS FOR DEVELOPING PLANS AND PROGRAMS. The process for developing the plans and programs under this subchapter must:

(1) provide for consideration of all modes of transportation;

(2) be continuing, cooperative, and comprehensive to the extent appropriate, based on the complexity of the transportation problems to be addressed; and

(3) give consideration to statewide connectivity of transportation services and infrastructure.

Sec. 201.660. PLANNING ORGANIZATION LONG-RANGE PLAN. (a) A planning organization may also prepare and update periodically a long-range transportation plan for its region.

(b) The first 10 years of the long-range plan shall be identical to the plan developed under Section 201.656.

(c) Before approving a long-range transportation plan, a planning organization shall provide to residents in its boundaries, affected public agencies, and other interested parties a reasonable opportunity to comment on the long-range transportation plan.

(d) A planning organization shall make each of its long-range transportation plans readily available for public review and shall deliver each plan to the commission at the times and in the manner required by the commission.

Sec. 201.661. PARTICIPATION IN PLAN DEVELOPMENT. (a) In developing a plan under this subchapter, a planning organization shall seek the opinions and assistance of the appropriate transportation officials.

(b) As appropriate, the department and a metropolitan planning organization may enter into a memorandum of understanding relating to the planning of transportation services.

(c) The department shall review the plans of each planning organization to ensure compliance with the requirements of 23 U.S.C. Section 135, and provide assistance to a planning organization to correct deficiencies.

Sec. 201.662. PLANS TO BE FINANCIALLY CONSTRAINED. A plan under this subchapter must be financially constrained and identify transportation projects and projects for any other mode of transportation not included in Section 201.651(5).

Sec. 201.663. PLAN ADJUSTMENTS. The commission shall adopt rules to allow a planning organization to move projects forward or delay projects if there are additional or less funds available than identified in the cash flow forecast under Section 201.654. Adjustments to the plan may not be made more than semiannually, unless there are substantial increases or decreases in available funding.

Sec. 201.664. EVALUATION COMPONENT OF PLAN. A plan under this subchapter shall include a component, published annually, that describes the evaluation of transportation improvements based on performance measures, such as indices that measure delay reductions or travel time improvements. The planning organization shall

consider the performance measures in selecting transportation improvements.

Sec. 201.665. DEPARTMENT'S STATEWIDE TRANSPORTATION PROGRAM AND BUDGET. (a) The department shall use the planning organizations' project lists to create the statewide transportation program and budget. The statewide transportation program and budget shall include at least:

(1) the department's operating budget;

(2) the official cash flow forecast under Section 201.654;

(3) the regions' allocations of funds;

(4) the projects selected by the planning organization under Section 201.658; and

(5) the work plan required by Section 201.674.

(b) The statewide transportation program and budget shall be complete and adopted not later than June 30 of each even-numbered year. The commission shall adopt rules to create a process for planning organizations to amend the plan from July 1 of each even-numbered year until August 31 of the following year. Amendments to the plan may only reorder projects identified in the same region subject to Section 201.663.

Sec. 201.666. LENDING FUNDS BETWEEN PLANNING ORGANIZATIONS. (a) The commission may adopt rules to allow a planning organization to loan funds to another planning organization at the lending organization's discretion. Funds may be loaned under this section only to avoid the lapsing of federal appropriations authority.

(b) The rules must allow the lending planning organization to have a senior position with regard to any future allocated funds of the borrowing planning organization.

(c) The lending planning organization may not charge interest on funds borrowed by another planning organization that exceed the current bond rate of outstanding state highway fund bonds or in the absence of outstanding debt the prevailing market rate for comparable municipal debt. The commission shall notify all districts of that rate.

(d) A lending planning organization may not be penalized in its performance measures if it successfully negotiates a loan with another planning organization.

(e) The commission may be involved in the coordination of a loan of funds under this section.

Sec. 201.667. ORGANIZATION OF STATEWIDE TRANSPORTATION PROGRAM AND BUDGET. (a) The statewide transportation program and budget shall be organized first by region, then by mode of transportation, followed by the year of the project.

(b) The summary tables of the statewide transportation program and budget shall summarize the statewide project cost by mode and then by year and shall be made available online in accordance with Section 201.807.

Sec. 201.668. TRANSPORTATION ALLOCATION FUNDING FORMULA. (a) The commission shall adopt rules that create funding formulas for transportation projects. In developing the formulas the commission shall consider the input of planning organizations, transportation officials, and county and municipal officials.

(b) All funds received by the department for highways, including toll roads and toll road systems, that may be allocated in this state's or the department's discretion shall be allocated by a formula to each planning organization that is based on performance measures and includes at least the following criteria:

(1) centerline miles;

(2) level of congestion;

(3) percentage of population below federal poverty level;

(4) population;

(5) safety; and

(6) vehicle miles traveled.

(c) The commission shall allocate to the planning organizations funding for the project costs of all transportation projects. The commission shall adopt various formulas for the different types of transportation projects, including funding for statewide connectivity projects. The commission shall adopt rules for all transportation formulas.

Sec. 201.669. USE OF ALLOCATED FUNDS. The funds allocated to a planning organization under Section 201.668 may be used to:

(1) pay project costs, provide toll equity, or make payments under a pass-through toll agreement, for transportation projects selected by the planning organization;

(2) pay debt service;

(3) repay money borrowed from another region; or

(4) fund a planning organization's operations under Section 201.672.

Sec. 201.670. SURPLUS REVENUE AND CONTRACT PAYMENTS NOT ALLOCATED BY FORMULA. (a) Revenue from Sections 228.005, 228.0055, and 228.006 shall be allocated in accordance with Subchapter B, Chapter 228.

(b) Funds associated with toll projects under Chapter 228 are not considered revenue allocated by a formula under Section 201.668.

Sec. 201.671. ENCUMBRANCE OF ALLOCATED FUNDS. (a) The allocation of funds shall be encumbered in an amount equal to the engineer's estimate of the project cost and reduced by the actual project cost at the time payments associated with the project are paid.

(b) If a planning organization elects to use bond proceeds to advance a project, the allocation of funds shall be encumbered by the annual cost of debt service and reduced when debt service payments are paid.

Sec. 201.672. USE OF ALLOCATED FUNDS FOR OPERATING COSTS OF PLANNING ORGANIZATION. (a) A metropolitan planning organization operating in a transportation management area as defined by 23 U.S.C. Section 134(k) may use the allocated funds to pay for the operations costs of the planning organization. The amount that may be allocated to pay for the operations of the planning organization may not exceed the lesser of $10 million or 10 percent of the planning organization's total funds.

(b) A metropolitan planning organization operating in an area that is not a transportation management area may use the allocated funds to pay for the operations costs of the planning

organization. The amount that may be allocated to pay for the operations of the planning organization may not exceed the lesser of $3 million or 10 percent of the planning organization's total funds.

(c) A rural planning organization may use the allocated funds to pay for the operations costs of the planning organization. The amount that may be allocated to pay for the operations of the planning organization may not exceed the lesser of $1 million or 10 percent of the planning organization's total allocated funds.

Sec. 201.673. COMMISSION EMERGENCY AND ECONOMIC DEVELOPMENT FUNDS. (a) Notwithstanding Section 201.655(b), the commission may annually set aside an amount of funds not to exceed the lesser of 10 percent of the total funds allocated to all districts or $250 million for the purpose of addressing emergencies or economic development opportunities that require transportation infrastructure. The funds may be carried forward from year to year but may not accumulate to more than $1 billion.

(b) If the commission elects to set aside an amount of funds under Subsection (a), the total amount of funds available for allocation shall be reduced by the amount set aside before the allocation of funds by the formula.

(c) The funds shall be encumbered in an amount equal to the engineer's estimate of the project cost and reduced by the actual project cost at the time payments associated with the project are paid.

(d) The commission may use funds set aside under this section for emergency and economic development opportunities that

require transportation infrastructure in the same manner a planning organization may use money allocated under Section 201.669.

(e) If the commission elects to use bond proceeds to advance a project, the funds shall be encumbered by the annual cost of debt service and reduced when debt service payments are paid.

(f) The funds set aside under Subsection (a) may be used to pay cost overruns and change orders only for projects selected by the commission under this section.

(g) The commission may use the funds set aside under Subsection (a) to make payments for projects funded in accordance with Section 222.104 or to provide toll equity only if the commission selects the projects using a competitive project selection process.

Sec. 201.674. DEPARTMENT 10-YEAR BUSINESS WORK PLAN. On completion of the 10-year transportation plan in Section 201.656, the department shall use the prioritized lists of projects to develop a proposed 10-year business work plan. The work plan shall be adopted not later than August 31 of each even-numbered year and include:

(1) a list of projects for which planning, permitting, design, right-of-way acquisition, or construction work will be conducted during the period;

(2) the state fiscal quarter in which key milestones for each project will be reached, including environmental clearance, completion of final engineering plans, completion of right-of-way acquisition, letting to contract, and completion of construction; and

(3) the funding allocated or estimated in each state fiscal year for each category of work for each project.

Sec. 201.675. WORK PROGRAM. (a) Each department district shall develop a consistently formatted work program based on the department 10-year business work plan covering a period of four years that contains all projects that the district proposes to implement during that period.

(b) The department shall use the work program to:

(1) monitor the performance of the district; and

(2) evaluate the performance of district employees.

(c) The department shall publish the work program in appropriate media and on the department's Internet website.

Sec. 201.676. STATEWIDE CONNECTIVITY PLAN AND PROJECTS. (a) The department shall work with planning organizations to develop a statewide connectivity plan.

(b) The department by rule shall:

(1) establish criteria for designating a project as a statewide connectivity project; and

(2) develop benchmarks for evaluating the progress of a statewide connectivity project and timelines for implementation and construction of a statewide connectivity project.

(c) The department annually shall update the list of projects that are designated as statewide connectivity projects.

(d) The commission shall adopt the statewide connectivity plan.

Sec. 201.677. PAVEMENT MANAGEMENT INFORMATION SYSTEM. (a) The department shall measure the condition of the pavement for each

highway under the jurisdiction of the department.

(b) The department shall establish a system that makes the information collected under Subsection (a) available to the planning organizations for use in determining transportation projects.

Sec. 201.678. FINALIZED BIENNIAL PROJECT PLAN. In addition to the plan required by Section 201.674 and other provisions of this chapter, not later than August 31 of each odd-numbered year, the department shall finalize a project plan for the period that begins on September 1 of that year and ends on August 31 of the following odd-numbered year. The plan must include:

(1) a project schedule with funding for each phase of each project;

(2) a consultant acquisition plan with a schedule for contract selections;

(3) a right-of-way acquisition plan; and

(4) a letting plan.

Sec. 201.679. PERFORMANCE MEASURES FOR BIENNIAL PROJECT PLAN. (a) The department shall develop a set of performance measures for the plan under Section 201.678 intended to measure:

(1) the execution of the work program;

(2) the efficiency and cost-effectiveness of its business practices;

(3) the preservation of the system investment;

(4) the addition of new capacity to the system;

(5) safety initiatives; and

(6) utilization of minority, disadvantaged, and small

businesses.

(b) At a minimum, the performance measures adopted under Subsection (a) must include:

(1) the percentage of projects for which environmental clearance is obtained on or before the planned date;

(2) the number of engineering contracts or work orders executed in contrast with the number planned;

(3) the average time between selection and execution of a contract for engineering services;

(4) the number of right-of-way parcels acquired and the number scheduled to be acquired;

(5) the percentage of projects for which right-of-way acquisition is completed on or before the planned date;

(6) the percentage of parcels acquired through negotiation;

(7) the percentage of negotiated parcels acquired for an amount that does not exceed 120 percent of the initial department offer;

(8) the total amount spent for right-of-way as a percentage of the original estimated amount;

(9) the number of construction contracts entered into in contrast with the number planned;

(10) the percentage of construction contracts executed on or before the planned letting date;

(11) the total amount spent for construction contracts as a percentage of the original estimated amount;

(12) for all construction contracts completed during

the state fiscal year, the percentage completed within 20 percent of the original contract time;

(13) for all construction contracts completed during the state fiscal year, the percentage completed within 10 percent of the original contract price;

(14) construction contract adjustments as a percentage of original contract price;

(15) the percentage of bridge structures on the state highway system that have a rating of good or excellent;

(16) the percentage of bridge structures on the state highway system that have a posted weight limitation;

(17) the number of bridge repair contracts let in contrast with the number planned;

(18) the number of bridge replacement contracts let in contrast with the number planned;

(19) the percentage of lane miles on the state highway system that have a pavement condition rating of excellent or good;

(20) the number of lane miles on the state highway system that were resurfaced in contrast with the number planned;

(21) the number of lane miles of capacity improvement projects let in contrast with the number planned;

(22) of the federal funds subject to forfeiture at the end of the state fiscal year, the percentage that was committed by the department;

(23) the amounts of cash receipts and disbursements in contrast with the forecasted amounts;

(24) the amount spent in connection with contracts

with minority business enterprises as a percentage of the amount spent on all contracts;

(25) the number of construction contracts let in contrast with the number let in previous state fiscal years;

(26) the peak hour travel congestion in the seven largest metropolitan areas in contrast with previous state fiscal years;

(27) the number of vehicle miles traveled in contrast with previous state fiscal years; and

(28) the number of lane miles added as a percentage of the number of previously existing lane miles.

(c) The department shall consult with the Transportation Legislative Oversight Committee in developing the performance measures under Chapter 205. This subsection expires August 31, 2013.

Sec. 201.680. PERFORMANCE REVIEW. Not later than December 1 of each odd-numbered year, the commission shall review the performance of the department's duties under Section 201.678 and make the review available to the public. The review must include a report on the level of achievement of each performance measure listed in Section 201.679(a), statewide and by department district, and a status report on each major project under development.

SECTION 2.03. Subchapter J, Chapter 201, Transportation Code, is amended by adding Sections 201.807, 201.808, and 201.809 to read as follows:

Sec. 201.807. PROJECT INFORMATION REPORTING SYSTEM. (a) The department shall establish a project information reporting

system that makes available in a central location on the department's Internet website easily accessible and searchable information to enable the tracking of project development and the expenditure of funds in the department's statewide transportation program and budget. The project information reporting system shall contain information about:

(1) each project, including:

(A) the status of the project;

(B) each source of funding for the project;

(C) benchmarks for evaluating the progress of the project;

(D) timelines for completing the project;

(E) a list of the department employees responsible for the project, including information to contact each person on that list; and

(F) the results of the annual review required under Subsection (e);

(2) each construction work zone for a project that has a construction phase timeline that exceeds one month or the cost of which exceeds $5 million, including information about:

(A) the number of lanes that will remain open during the project's construction phase;

(B) the location and duration of each lane closure; and

(C) the expected and actual traffic delay resulting from each lane closure;

(3) road maintenance projects, including:

(A) the criteria for designating a project as a road maintenance project; and

(B) the condition of each road before the road maintenance project; and

(4) the department's funds, including each source for the department's funds and each expenditure made by the department reported by each:

(A) department district;

(B) program funding category; and

(C) type of revenue, including revenue from a comprehensive development agreement or a toll project.

(b) The department shall develop an interactive web-based system for the tracking of planning organization allocations and projects under Subchapter H-1. The planning organizations shall be granted access to the system through a secure site to input information regarding projects and the associated project costs. The system shall provide the planning organization information regarding the organization's allocation of funding for the region and the federal and state requirements for each source of funding.

(c) In developing the project information reporting system, the department shall collaborate with:

(1) the legislature;

(2) planning organizations, as defined by Section 201.651; and

(3) members of the public.

(d) The department shall make the statistical information provided under this section available on the department's Internet

website in more than one downloadable electronic format.

(e) As a component of the project information reporting system required by this section, the department shall conduct an annual review of the benchmarks and timelines of each project included in the department's statewide transportation program and budget to determine the completion rates of the projects and whether the projects were completed on time.

(f) The department shall continuously update the information contained in the project information reporting system.

Sec. 201.808. TRANSPORTATION EXPENDITURE PRIORITIES. (a) The department shall develop a process to identify and distinguish between the transportation projects that are required to maintain the state infrastructure and the transportation projects that would improve the state infrastructure.

(b) The department shall establish a transportation expenditure reporting system that makes available in a central location on the department's Internet website easily accessible and searchable information regarding the priorities of transportation expenditures for the identified transportation projects.

(c) The department shall include in the transportation expenditure reporting system:

(1) reports prepared by the department or an institution of higher education that evaluate the effectiveness of the department's expenditures on transportation projects;

(2) information about the condition of the pavement for each highway under the jurisdiction of the department, including:

(A) the international roughness index issued by the United States Department of Transportation Federal Highway Administration; and

(B) the percentage of pavement that the department determines to be in good or better condition;

(3) the condition of bridges, including information about:

(A) bridges that are structurally deficient or functionally obsolete; and

(B) bridge deterioration scores;

(4) information about traffic congestion and traffic delays, including:

(A) the locations of the worst traffic delays;

(B) the variable travel time for major streets and highways in this state; and

(C) the effect of traffic congestion on motor vehicle travel and motor carriers; and

(5) information about the number of traffic accidents, injuries, and fatalities, including a list of the locations in each department district for the highest number of traffic accidents, injuries, or fatalities.

(d) The department shall provide the information made available under Subsection (c) in a format that allows a person to conduct electronic searches for information regarding a specific county, highway under the jurisdiction of the department, or class of road.

(e) Each department district or planning organization, as

that term is defined by Section 201.651, shall enter information into the transportation expenditure reporting system, including information about each project and the priority of each project.

(f) The transportation expenditure reporting system shall allow a person to compare information produced by that system to information produced by the project information reporting system.

Sec. 201.809. DEPARTMENT INFORMATION CONSOLIDATION. To the extent practicable and to avoid duplication of reporting requirements, the department may combine the reports required under this subchapter with reports required under other provisions of this code.

SECTION 2.04. Section 222.034(b), Transportation Code, is amended to read as follows:

(b) The commission may vary from the distribution procedure provided by Subsection (a) if it issues a ruling or minute order identifying the variance and providing a particular justification for the variance. If the commission intends to vary from the distribution procedure, it must allocate the funding in accordance with a formula adopted under Section 201.668.

SECTION 2.05. Section 222.105, Transportation Code, is amended to read as follows:

Sec. 222.105. PURPOSES. The purposes of Sections 222.106 and 222.107 are to:

(1) promote public safety;

(2) facilitate the improvement, development, or redevelopment of property;

(3) facilitate the movement of traffic; and

(4) enhance a local entity's ability to sponsor a transportation project authorized under Section 222.104.

SECTION 2.06. Section 222.106, Transportation Code, is amended by amending Subsections (b), (c), (g), (h), (i), (j), (k), and (l) and adding Subsections (i-1) and (i-2) to read as follows:

(b) This section applies only to a municipality in which a transportation project is to be developed [~~the governing body of which intends to enter into an agreement with the department~~] under Section 222.104.

(c) If the governing body determines an area to be unproductive and underdeveloped and that action under this section will further the purposes stated in Section 222.105, the governing body of the municipality by ordinance may designate a contiguous geographic area in the jurisdiction of the municipality to be a transportation reinvestment zone to promote a transportation project [~~described by Section 222.104 that cultivates development or redevelopment of the area~~].

(g) The ordinance designating an area as a transportation reinvestment zone must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) provide that the zone takes effect immediately on passage of the ordinance;

(3) assign a name to the zone for identification, with the first zone designated by a municipality designated as "Transportation Reinvestment Zone Number One, (City or Town, as

applicable) of (name of municipality)," and subsequently designated zones assigned names in the same form, numbered consecutively in the order of their designation;

(4) designate the base year for purposes of establishing the tax increment base of the municipality;

(5) establish an ad valorem tax increment account for the zone; and

(6) [~~(5)~~] contain findings that promotion of the transportation project will cultivate the improvement, development, or redevelopment of the zone.

(h) From taxes collected on property in a zone, the municipality shall pay into the tax increment account for the zone [~~an amount equal to~~] the tax increment produced by the municipality, less any amount allocated under previous agreements, including agreements under Chapter 380, Local Government Code, or Chapter 311, Tax Code.

(i) All or the portion specified by the municipality of the money deposited to a tax increment account must be used to fund the transportation project for which the zone was designated, as well as aesthetic improvements within the zone. Any remaining money deposited to the tax increment account may be used for other purposes as determined by the municipality [~~Money deposited to a tax increment account must be used to fund projects authorized under Section 222.104, including the repayment of amounts owed under an agreement entered into under that section~~].

(i-1) The governing body of a municipality may contract with a public or private entity to develop, redevelop, or improve a

transportation project in a transportation reinvestment zone and may pledge and assign all or a specified amount of money in the tax increment account to that entity. After a pledge or assignment is made, if the entity that received the pledge or assignment has itself pledged or assigned that amount to secure bonds or other obligations issued to obtain funding for the transportation project, the governing body of the municipality may not rescind its pledge or assignment until the bonds or other obligations secured by the pledge or assignment have been paid or discharged.

(i-2) To accommodate changes in the limits of the project for which a reinvestment zone was designated, the boundaries of a zone may be amended at any time, except that property may not be removed or excluded from a designated zone if any part of the tax increment account has been assigned or pledged directly by the municipality or through another entity to secure bonds or other obligations issued to obtain funding of the project, and property may not be added to a designated zone unless the governing body of the municipality complies with Subsections (e) and (g).

(j) Except as provided by Subsections (i-1) and [~~Subsection~~] (k), a transportation reinvestment zone terminates on December 31 of the year in which the municipality completes [~~complies with~~] a contractual requirement, if any, that included the pledge or assignment of all or a portion of money deposited to a tax increment account or the repayment of money owed under an [~~the~~] agreement for development, redevelopment, or improvement of the project for [~~under Section 222.104 in connection with~~] which the zone was designated.

(k) A transportation reinvestment zone terminates on December 31 of the 10th year after the year the zone was designated, if before that date the municipality has not entered into a contract described in Subsection (i-1) or otherwise not used the zone for the purpose for which it was designated.

(l) Any surplus remaining in a tax increment account on termination of a zone may be used for other purposes as determined by [~~transportation projects of~~] the municipality [~~in or outside of the zone~~].

SECTION 2.07. The heading to Section 222.107, Transportation Code, is amended to read as follows:

Sec. 222.107. COUNTY TRANSPORTATION REINVESTMENT ZONES[~~; TAX ABATEMENTS; ROAD UTILITY DISTRICTS~~].

SECTION 2.08. Section 222.107, Transportation Code, is amended by amending Subsections (b), (c), (e), (f), (h), (i), (k), and (l) and adding Subsections (h-1) and (k-1) to read as follows:

(b) This section applies only to a county in which a transportation project is to be developed [~~the commissioners court of which intends to enter into a pass-through toll agreement with the department~~] under Section 222.104.

(c) The commissioners court of the county, after determining that an area is unproductive and underdeveloped and that action under this section would further the purposes described by Section 222.105, by order or resolution may designate a contiguous geographic area in the jurisdiction of the county to be a transportation reinvestment zone to promote a transportation project [~~described by Section 222.104 that cultivates development~~

~~or redevelopment of the area~~] and for the purpose of abating ad valorem taxes or granting other relief from taxes imposed by the county on real property located in the zone.

(e) Not later than the 30th day before the date the commissioners court proposes to designate an area as a transportation reinvestment zone under this section, the commissioners court must hold a public hearing on the creation of the zone, its benefits to the county and to property in the proposed zone, and the abatement of ad valorem taxes or the grant of other relief from ad valorem taxes imposed by the county on real property located in the zone. At the hearing an interested person may speak for or against the designation of the zone, its boundaries, or the abatement of or the relief from county taxes on real property in the zone. Not later than the seventh day before the date of the hearing, notice of the hearing and the intent to create a zone must be published in a newspaper having general circulation in the county.

(f) The order or resolution designating an area as a transportation reinvestment zone must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) provide that the zone takes effect immediately on adoption of the order or resolution; [~~and~~]

(3) assign a name to the zone for identification, with the first zone designated by a county designated as "Transportation Reinvestment Zone Number One, County of (name of county)," and

subsequently designated zones assigned names in the same form numbered consecutively in the order of their designation; and

(4) designate the base year for purposes of establishing the tax increment base of the county.

(h) The commissioners court by order or resolution may enter into an agreement with the owner of any real property located in the transportation reinvestment zone to abate all or a portion of the ad valorem taxes or to grant other relief from the taxes imposed by the county on the owner's property in an amount not to exceed the amount calculated under Subsection (a)(1) for that year. All abatements or other relief granted by the commissioners court in a transportation reinvestment zone must be equal in rate. In the alternative, the commissioners court by order or resolution may elect to abate a portion of the ad valorem taxes or otherwise grant relief from the taxes imposed by the county on all real property located in the zone. In any ad valorem tax year, the total amount of the taxes abated or the total amount of relief granted under this section may not exceed the amount calculated under Subsection (a)(1) for that year, less any amounts allocated under previous agreements, including agreements under Chapter 381, Local Government Code, or Chapter 312, Tax Code.

(h-1) To further the development of the transportation project for which the transportation reinvestment zone was designated, a county may assess all or part of the cost of the transportation project against property within the zone. The assessment against each property in the zone may be levied and payable in installments in the same manner as provided by Sections

372.016-372.018, Local Government Code, provided that the installments do not exceed the total amount of the tax abatement or other relief granted under Subsection (h). The county may elect to adopt and apply the provisions of Sections 372.015-372.020 and 372.023, Local Government Code, to the assessment of costs and Sections 372.024-372.030, Local Government Code, to the issuance of bonds by the county to pay the cost of a transportation project. The commissioners court of the county may contract with a public or private entity to develop, redevelop, or improve a transportation project in the transportation reinvestment zone, including aesthetic improvements, and may pledge and assign to that entity all or a specified amount of the revenue the county receives from installment payments of the assessments for the payment of the costs of that transportation project. After a pledge or assignment is made, if the entity that received the pledge or assignment has itself pledged or assigned that amount to secure bonds or other obligations issued to obtain funding for the transportation project, the commissioners court of the county may not rescind its pledge or assignment until the bonds or other obligations secured by the pledge or assignment have been paid or discharged. Any amount received from installment payments of the assessments not pledged or assigned in connection with the transportation project may be used for other purposes associated with the transportation project or in the zone.

(i) In the alternative, to [~~To~~] assist the county in developing a transportation project [~~authorized under Section 222.104~~], if authorized by the commission under Chapter 441, a road

utility district may be formed under that chapter that has the same boundaries as a transportation reinvestment zone created under this section.

(k) A road utility district formed as provided by Subsection (i) may enter into an agreement [~~with the county to assume the obligation, if any, of the county~~] to fund development of a project [~~under Section 222.104~~] or to repay funds owed to the department [~~under Section 222.104~~]. Any amount paid for this purpose is considered to be an operating expense of the district. Any taxes collected by the district that are not paid for this purpose may be used for any district purpose.

(k-1) To accommodate changes in the limits of the project for which a reinvestment zone was designated, the boundaries of a zone may be amended at any time, except that property may not be removed or excluded from a designated zone if any part of the assessment has been assigned or pledged directly by the county or through another entity to secure bonds or other obligations issued to obtain funding of the project, and property may not be added to a designated zone unless the governing body of the municipality complies with Subsections (e) and (f).

(l) Except as provided by Subsection (m), a tax abatement agreement entered into under Subsection (h), or an order or resolution on the abatement of taxes or the grant of relief from taxes under that subsection, terminates on December 31 of the year in which the county completes any contractual requirement that included the pledge or assignment of assessments [~~of money~~] collected under this section.

SECTION 2.09. Subchapter E, Chapter 222, Transportation Code, is amended by adding Sections 222.108 and 222.109 to read as follows:

Sec. 222.108. TRANSPORTATION REINVESTMENT ZONES FOR OTHER TRANSPORTATION PROJECTS. (a) Notwithstanding the requirement in Sections 222.106(b) and 222.107(b) that a transportation reinvestment zone be established in connection with a project under Section 222.104, a municipality or county may establish a transportation reinvestment zone for any transportation project. If all or part of the transportation project is subject to oversight by the department, at the option of the governing body of the municipality or county, the department shall delegate full responsibility for the development, design, letting of bids, and construction of the project, including project oversight and inspection, to the municipality or county provided that the commission or department may take any action that in its reasonable judgment is necessary to comply with any federal requirement to enable this state to receive federal-aid highway funds.

(b) A transportation project developed under Subsection (a) that is on the state highway system must comply with state design criteria unless the department grants an exception to the municipality or county.

(c) In this section, "transportation project" has the meaning assigned by Section 370.003.

Sec. 222.109. REDUCTION PROHIBITED. (a) A municipality or county may not be penalized with a reduction in traditional transportation funding because of the designation and use of a

transportation reinvestment zone under this chapter. Any funding from the department identified for a project before the date that a transportation reinvestment zone is designated may not be reduced because the transportation reinvestment zone is designated in connection with that project.

(b) The department may not reduce any allocation of traditional transportation funding to any of its districts because a district contains a municipality or county that contains a transportation reinvestment zone designated under this chapter.

SECTION 2.10. (a) Section 223.041, Transportation Code, is amended by adding Subsections (c), (d), (e), and (f) to read as follows:

(c) Of the positions paid out of funds appropriated to the department for the planning, design, and management of transportation projects in the General Appropriations Act (Strategy A.1.1., or its successor), the department may fill only one of every five positions until staffing levels are reduced by 40 percent from the level existing as of August 31, 2009, or to a level not to exceed 2,500 positions, with commensurate reductions in associated administrative costs.

(d) The department shall report to the Legislative Budget Board not later than September 1 of each year on the department's progress in achieving the goal set by Subsection (c).

(e) The Legislative Budget Board may modify the requirements of Subsection (c) if, after a study by the State Council on Competitive Government, the board finds that it is not possible for the department to obtain services from the private

sector on a cost-effective basis. A study conducted under this section must:

(1) analyze the full costs of the department's total plan/design/manage function, with indirect costs allocated in proportion to chargeable salaries in a manner comparable to private providers;

(2) analyze the department's historic costs of procuring services from private sector providers, including the costs of comprehensive project delivery services;

(3) review and analyze the costs that other public entities have for procuring project delivery and engineering services from private sector providers for large-scale construction projects; and

(4) review and make recommendations regarding engineering management practices used by other public entities that could improve the efficiency of the department's project delivery and engineering management system.

(f) If the Legislative Budget Board makes a request for a study under Subsection (e), the costs of the study shall be paid by the department through interagency contract. The study shall be managed by the State Council on Competitive Government but may be performed by an independent contractor.

SECTION 2.11. Section 222.053, Transportation Code, is amended by amending Subsection (b) and adding Subsection (i) to read as follows:

(b) Except as provided by Subsections [~~Subsection~~] (c) and (i), the commission may require, request, or accept from a

political subdivision matching or other local funds, rights-of-way, utility adjustments, additional participation, planning, documents, or any other local incentives to make the most efficient use of its highway funding.

(i) The commission may waive, from a political subdivision, matching or other local funds, rights-of-way, utility adjustments, additional participation, planning, documents, or any other local incentives for a designated Texas Highway Trunk System project located in:

(1) a county with a population of less than 5,000; or

(2) a county with a population of 5,000 or more but less than 15,000 if the project is part of a high priority corridor on the national highway system identified under Section 1105 of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. No. 102-240) or other federal legislation.

SECTION 2.12. (a) Subchapter D, Chapter 472, Transportation Code, is amended by adding Sections 472.0311 through 472.0316 and 472.035 through 472.046 to read as follows:

Sec. 472.0311. PURPOSE. (a) The metropolitan transportation planning process described by this subchapter is intended to:

(1) encourage and promote the safe and efficient management, operation, and development of surface transportation systems to serve the mobility needs of people and freight;

(2) foster economic growth and development in and through urbanized areas of this state; and

(3) minimize transportation-related fuel consumption,

air pollution, and greenhouse gas emissions.

(b) To accomplish the objectives under Subsection (a), metropolitan planning organizations shall develop, in cooperation with this state and public transit operators, transportation plans and programs for metropolitan areas in this state.

(c) The plans and programs for each metropolitan area must provide for the development and integrated management and operation of transportation systems and facilities, including pedestrian walkways and bicycle transportation facilities that will function as an intermodal transportation system for the metropolitan area.

(d) The process for developing plans and programs under this subchapter shall provide for consideration of all modes of transportation and be continuing, cooperative, and comprehensive, to the degree appropriate, based on the complexity of the transportation issues to be addressed.

(e) To ensure that the process is integrated with the statewide planning process, metropolitan planning organizations shall develop plans and programs that identify transportation facilities that should function as an integrated metropolitan transportation system and give emphasis to facilities that serve important national, state, and regional transportation functions.

Sec. 472.0312. DESIGNATION AND BOUNDARIES. (a) A metropolitan planning organization must be designated or redesignated in accordance with, and its boundaries determined by, 23 U.S.C. Section 134.

(b) Each designated metropolitan planning organization must be fully operational not later than the 180th day after the

date of its designation.

Sec. 472.0313. POLICY BOARD OFFICERS. (a) Each policy board shall designate, at a minimum, a presiding officer, an assistant presiding officer, and a secretary.

(b) The policy board shall select from among its members the presiding officer and assistant presiding officer.

(c) The secretary of the policy board shall prepare meeting minutes and maintain board records. The secretary may be a member of the policy board, an employee of the metropolitan planning organization, or any other individual.

Sec. 472.0314. OPEN MEETINGS. A policy board is subject to Chapter 551, Government Code.

Sec. 472.0315. POLICY BOARD MEMBERSHIP AND VOTING REQUIREMENTS; ELIGIBILITY FOR STATE ALLOCATION OF FUNDING. (a) To be eligible to receive funds from this state for transportation projects under Section 201.668:

(1) at least 75 percent of a metropolitan planning organization's policy board members must be elected officials who are elected in the boundaries of the metropolitan planning organization; and

(2) only elected officials may be voting members of the organization's policy board.

(b) A metropolitan planning organization that is not eligible under Subsection (a) may redesignate the board so as to become eligible to receive an allocation of funds under Section 201.668.

(c) In this section, "elected official" means the presiding

officer or a member of the governing body of a municipality, a county judge, a county commissioner, a state representative, or a state senator.

Sec. 472.0316. REPRESENTATION OF TRANSPORTATION-RELATED ENTITIES. (a) In metropolitan areas in which authorities or other agencies have been or may be created by law to perform transportation functions and are performing transportation functions that are not under the jurisdiction of a municipality or county represented on the metropolitan planning organization, the authorities or other agencies may be provided voting membership on the policy board.

(b) In all other metropolitan planning organizations in which transportation authorities or agencies are to be represented by elected officials from a municipality or county, the organization shall establish a process by which the collective interests of such authorities or other agencies are expressed and conveyed.

Sec. 472.035. POWERS, DUTIES, AND RESPONSIBILITIES. (a) The powers, duties, and responsibilities of a metropolitan planning organization are those specified in this subchapter or incorporated in an interlocal agreement entered into to implement this subchapter.

(b) Each metropolitan planning organization shall perform all acts required by applicable federal or state law or rules that are necessary to qualify for federal aid.

Sec. 472.036. PLANNING. (a) To the extent permitted by state or federal law, a metropolitan planning organization shall:

(1) be involved in the planning and programming of transportation facilities, including airports, intermunicipal and high-speed rail lines, seaports, and intermodal facilities; and

(2) in cooperation with the department, develop:

(A) a long-range transportation plan as required by Section 472.042;

(B) an annually updated transportation improvement program as required by Section 472.043; and

(C) an annual unified planning work program as required by Section 472.044.

(b) In developing the long-range transportation plan and the transportation improvement program under Subsection (a), each metropolitan planning organization shall consider projects and strategies that will:

(1) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

(2) increase the safety and security of the transportation system for motorized and nonmotorized users;

(3) increase the accessibility and mobility options available to people and for freight;

(4) protect and enhance the environment, promote energy conservation, and improve quality of life;

(5) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

(6) promote efficient system management and

operation; and

(7) emphasize the preservation of the existing transportation system.

(c) To provide recommendations to the department and local governmental entities regarding transportation plans and programs, each metropolitan planning organization shall:

(1) prepare a congestion management system for the metropolitan area and cooperate with the department in the development of any other transportation management system required by state or federal law;

(2) assist the department in mapping transportation planning boundaries required by state or federal law;

(3) assist the department in performing its duties relating to access management, functional classification of roads, and data collection;

(4) execute all agreements or certifications necessary to comply with applicable state or federal law;

(5) represent all the jurisdictional areas in the metropolitan area in the formulation of a transportation plan or program required by this subchapter; and

(6) perform all other duties required by state or federal law.

Sec. 472.037. TECHNICAL ADVISORY COMMITTEE. (a) Each metropolitan planning organization shall appoint a technical advisory committee whose members serve at the pleasure of the metropolitan planning organization.

(b) The membership of the technical advisory committee must

include, if possible:

(1) planners;

(2) engineers;

(3) a representative of each political subdivision or agency or department of a political subdivision that provides transportation services, including, as applicable:

(A) a port authority, navigation district, or public transit authority; or

(B) a county or municipal airport or transit department;

(4) the superintendent of each school district in the jurisdiction of the metropolitan planning organization or a person designated by the superintendent; and

(5) other appropriate representatives of affected local governments.

Sec. 472.038. SAFE ACCESS TO SCHOOLS. (a) In addition to any other duty assigned to it by the metropolitan planning organization or by state or federal law, the technical advisory committee is responsible for considering safe access to schools in its review of transportation project priorities, long-range transportation plans, and transportation improvement programs and shall advise the metropolitan planning organization on those issues.

(b) The technical advisory committee shall coordinate its actions with local school boards and other local programs and organizations in the metropolitan area that participate in school safety activities, including locally established community traffic safety teams.

(c) A school board must provide the appropriate metropolitan planning organization with information concerning future school sites and the coordination of transportation services.

Sec. 472.039. EMPLOYEES. (a) Each metropolitan planning organization shall employ:

(1) an executive or staff director who reports directly to the organization's policy board for all matters regarding the administration and operation of the metropolitan planning organization; and

(2) any additional personnel the policy board considers necessary.

(b) The executive or staff director and additional personnel may be employed by the metropolitan planning organization or by another governmental entity, including a county, municipality, or regional planning organization that has a staff services agreement with the metropolitan planning organization.

(c) A metropolitan planning organization may enter into a contract with a local or state agency, private planning firm, private engineering firm, or other public or private entity to accomplish the metropolitan planning organization's transportation planning and programming duties and administrative functions.

Sec. 472.040. TRAINING. (a) To enhance its members' knowledge, effectiveness, and participation in the transportation planning process, a metropolitan planning organization shall provide training opportunities and funds for the organization's members.

(b) Training of its policy board members may be conducted by the metropolitan planning organization or through statewide or federal training programs and initiatives that are specifically designed to meet the needs of metropolitan planning organization policy board members.

Sec. 472.041. COORDINATION WITH OTHER ENTITIES. A metropolitan planning organization may join with any other metropolitan planning organization or an individual political subdivision to:

(1) coordinate activities; or

(2) achieve any federal or state transportation planning or development goal or purpose consistent with federal or state law.

Sec. 472.042. LONG-RANGE TRANSPORTATION PLAN. Each metropolitan planning organization shall develop a long-range transportation plan that addresses at least a 20-year period. The plan must include both long-range and short-range strategies and comply with all other state and federal requirements.

Sec. 472.043. TRANSPORTATION IMPROVEMENT PROGRAM. (a) Each metropolitan planning organization shall develop annually a list of project priorities and a transportation improvement program. The prevailing principles to be considered by the metropolitan planning organization when developing a list are:

(1) preserving the existing transportation infrastructure;

(2) enhancing the economic competitiveness of this state; and

(3) improving travel choices to ensure mobility.

(b) The transportation improvement program may be used to initiate federally aided transportation facilities and improvements and other transportation facilities and improvements, including transit, rail, aviation, and port facilities.

(c) The transportation improvement program must be consistent, to the maximum extent feasible, with comprehensive plans of the political subdivisions the boundaries of which are in the metropolitan area served by the metropolitan planning organization.

Sec. 472.044. UNIFIED PLANNING WORK PROGRAM. (a) Each metropolitan planning organization shall develop, in cooperation with the department and public transit operators, a unified planning work program that lists all planning tasks to be undertaken during the program year.

(b) The unified planning work program must provide a complete description of each planning task and an estimated budget for that task and must comply with applicable state and federal law.

Sec. 472.045. APPLICATION OF FEDERAL LAW. (a) On notification by an agency of the federal government that a provision of this subchapter conflicts with a federal law or regulation, the federal law or regulation takes precedence to the extent of the conflict until the conflict is resolved.

(b) The department or a metropolitan planning organization may take any action necessary to comply with federal laws and regulations or to continue to remain eligible to receive federal funds.

Sec. 472.046. PUBLICATION OF INFORMATION ON INTERNET WEBSITE. A metropolitan planning organization shall publish financial information on its Internet website, including information regarding:

(1) budgeted annual revenues and expenditures;

(2) actual annual revenues and expenditures; and

(3) staffing levels.

(b) A metropolitan planning organization is not required to designate officers in accordance with Section 472.0313, Transportation Code, as added by this section, and a technical advisory committee of a metropolitan planning organization is not required to comply with Section 472.037, Transportation Code, as added by this section, before January 1, 2010.

SECTION 2.13. Section 472.032, Transportation Code, is amended to read as follows:

Sec. 472.032. VOTING PROXIES BY POLICY BOARD MEMBERS PROHIBITED. (a) A policy board may not allow its members to vote by proxy [~~provide in its bylaws for appointment of voting proxies by its members~~].

(b) [~~A proxy appointed under Subsection (a):~~

[~~(1) acts on behalf of and under the supervision of the policy board member who appointed the proxy;~~

[~~(2) must be appointed in writing; and~~

[~~(3) is authorized to vote for the policy board member who appointed the proxy to the extent the member has given the proxy the member's voting power.~~

[~~(c)~~] A legislative member of a policy board may not be

counted as absent at a meeting of the policy board during a legislative session.

[~~(d) A legislative member of a policy board may only appoint a proxy under Subsection (a) who is:~~

[~~(1) the legislative member's employee or staff member;~~

[~~(2) a person related to the member within the second degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code, who is not required to register as a lobbyist under Chapter 305, Government Code;~~

[~~(3) another legislative member of the policy board; or~~

[~~(4) a locally elected official.~~]

ARTICLE 2A. INSPECTOR GENERAL

SECTION 2A.01. Chapter 201, Transportation Code, is amended by adding Subchapter F-1 to read as follows:

SUBCHAPTER F-1. INSPECTOR GENERAL

Sec. 201.451. INSPECTOR GENERAL. (a) The commission shall appoint an inspector general who reports to the commission.

(b) The inspector general shall:

(1) audit the department's financial condition and the efficiency of its business practices;

(2) evaluate the efficiency of the department's administrative practices and performance, including business plan performance measures, relationships with metropolitan planning organizations, performance of department districts and offices, and the need for standardization;

(3) identify the need and opportunities for reductions in staff and the need for a better or differently skilled workforce;

(4) study the implementation of and improvements to a commitment-based budget or business plan based on outcomes;

(5) identify ways to streamline the environmental approval process;

(6) evaluate compliance with applicable laws and legislative intent; and

(7) evaluate the efficient use of available funding, personnel, equipment, and office space.

(c) Notwithstanding Subsection (a), the Transportation Legislative Oversight Committee under Chapter 205 shall appoint the inspector general under this section. If appointed under this subsection, the inspector general is subject to removal for good cause by the commission. If the supreme court of this state determines that an appointment under this subsection violates Section 1, Article II, or Section 12, Article IV, Texas Constitution, the commission shall appoint the inspector general from a list provided by the Transportation Legislative Oversight Committee. This subsection expires August 31, 2013.

Sec. 201.452. COOPERATION AND COORDINATION WITH STATE AUDITOR. (a) An inspector general's review does not take precedence over the state auditor's review.

(b) The inspector general may meet with the state auditor's office to coordinate a review conducted under this subchapter, share information, or schedule work plans.

(c) In addition to the authority in Chapter 321, Government

Code, the state auditor is entitled to access all information maintained by the inspector general, including vouchers, electronic data, internal records, and other information.

(d) Any information obtained or provided by the state auditor under this section is confidential and not subject to disclosure under Chapter 552, Government Code.

Sec. 201.453. FINAL REVIEW REPORTS. (a) The inspector general shall prepare a final report for each review conducted under Section 201.451. The final report must include:

(1) a summary of the activities performed by the inspector general in conducting the review; and

(2) a description of any findings in connection with a review conducted under Section 201.451.

(b) An inspector general's final reports are subject to disclosure under Chapter 552, Government Code.

(c) Unless otherwise prohibited by this chapter or other law, the inspector general shall deliver a copy of each final report that concerns the implementation or administration of a state or federally funded program to:

(1) the commission and the executive director;

(2) the governor;

(3) the lieutenant governor;

(4) the speaker of the house of representatives;

(5) the state auditor; and

(6) the appropriate legislative oversight committees.

SECTION 2A.02. The Texas Transportation Commission or the Transportation Legislative Oversight Committee, as applicable,

shall appoint an inspector general as required by Section 201.451, Transportation Code, as added by this Act, not later than December 1, 2009.

ARTICLE 3. PUBLIC INVOLVEMENT AND COMPLAINTS

SECTION 3.01. (a) Section 201.801, Transportation Code, is amended to read as follows:

Sec. 201.801. [~~INFORMATION ABOUT DEPARTMENT;~~] COMPLAINTS. (a) The department shall maintain a system to promptly and efficiently act on complaints filed with the department. The department shall maintain information about the parties to and the subject matter of a complaint and a summary of the results of the review or investigation of the complaint and the disposition of the complaint.

(b) The department shall make information available describing its procedures for complaint investigation and resolution [~~prepare information of public interest describing the functions of the department and the department's procedures by which a complaint is filed with the department and resolved by the department. The department shall make the information available to the public and appropriate state agencies~~].

[~~(b) The commission by rule shall establish methods by which consumers and service recipients are notified of the department's name, mailing address, and telephone number for directing complaints to the department. The commission may provide for that notification:~~

[~~(1) on each registration form, application, or written contract for services of an individual or entity regulated~~

~~by the department;~~

[~~(2) on a sign prominently displayed in the place of business of each individual or entity regulated by the department; or~~

[~~(3) in a bill for service provided by an individual or entity regulated by the department.~~]

(c) [~~The department shall:~~

[~~(1) keep an information file about each written complaint filed with the department that the department has the authority to resolve; and~~

[~~(2) provide the person who filed the complaint, and each person or entity that is the subject of the complaint, information about the department's policies and procedures relating to complaint investigation and resolution.~~

[~~(d)~~] The department[~~, at least quarterly and until final disposition of a written complaint that is filed with the department and that the department has the authority to resolve,~~] shall periodically notify the parties to the complaint of its status until final disposition unless the notice would jeopardize an undercover investigation.

(d) The commission shall adopt rules applicable to each division and district to establish a process to act on complaints filed with the department [~~(e) With regard to each complaint filed with the department, the department shall keep the following information:~~

[~~(1) the date the complaint is filed;~~

[~~(2) the name of the person filing the complaint;~~

~~[(3) the subject matter of the complaint;~~

~~[(4) a record of each person contacted in relation to the complaint;~~

~~[(5) a summary of the results of the review or investigation of the complaint; and~~

~~[(6) if the department takes no action on the complaint, an explanation of the reasons that no action was taken~~].

(e) The department shall develop a standard form for submitting a complaint and make the form available on its Internet website. The department shall establish a method to submit complaints electronically.

(f) The department shall develop a method for analyzing the sources and types of complaints and violations and establish categories for the complaints and violations. The department shall use the analysis to focus its information and education efforts on specific problem areas identified through the analysis.

(g) The department shall:

(1) compile:

(A) detailed statistics and analyze trends on complaint information, including:

(i) the nature of the complaints;

(ii) their disposition; and

(iii) the length of time to resolve complaints; and

(B) complaint information on a district and a divisional basis; and

(2) report the information on a monthly basis to the

division directors, office directors, and district engineers and on a quarterly basis to the commissioner.

(b) The Texas Department of Transportation shall adopt rules under Section 201.801, Transportation Code, as amended by this section, not later than March 1, 2010.

SECTION 3.02. Subchapter J, Chapter 201, Transportation Code, is amended by adding Section 201.811 to read as follows:

Sec. 201.811. PUBLIC INVOLVEMENT POLICY. (a) The department shall develop and implement a policy for public involvement that guides and encourages public involvement with the department. The policy must:

(1) provide for the use of public involvement techniques that target different groups and individuals;

(2) encourage continuous contact between the department and persons outside the department throughout the transportation decision-making process;

(3) require the department to make efforts toward:

(A) clearly tying public involvement to decisions made by the department; and

(B) providing clear information to the public about specific outcomes of public input; and

(4) apply to all public input with the department, including input:

(A) on statewide transportation policy-making;

(B) in connection with the environmental process relating to specific projects; and

(C) into the department's rulemaking procedures.

(b) The department shall document the ratio of positive public input to negative public input regarding all environmental impact statements as expressed by the public through the department's public involvement process. The department shall:

(1) present this information to the commissioner in an open meeting; and

(2) report this information on the department's Internet website in a timely manner.

SECTION 3.03. (a) Section 228.004, Transportation Code, is amended to read as follows:

Sec. 228.004. [~~PROMOTION OF~~] TOLL PROJECT INFORMATION. (a) The department may, notwithstanding Chapter 2113, Government Code, engage in marketing, advertising, and other activities to provide information relating to the status of pending or ongoing [~~promote the development and use of~~] toll projects and may enter into contracts or agreements necessary to procure marketing, advertising, or informational [~~other promotional~~] services from outside service providers.

(b) This section does not authorize the department to engage in marketing, advertising, or other activities for the purpose of influencing public opinion about the use of toll roads or the use of tolls as a financial mechanism.

(b) The change in law made by this section applies only to a contract or agreement entered into or renewed under Section 228.004, Transportation Code, as amended by this section, on or after the effective date of this Act. A contract or agreement entered into or renewed under that section before the effective

date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 3.04. Section 228.201(a), Transportation Code, is amended to read as follows:

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

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

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

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

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

(5) a facility that has access, function, and control devices similar to the converted highway or segment before conversion is constructed adjacent to the highway or segment so that the number of nontolled lanes on the converted highway or segment and the adjacent facility together is greater than or equal to the number in existence on the converted highway or segment before the conversion; or

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

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

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

[~~(B) conducting the hearing required by Section 228.203; and~~

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

SECTION 3.05. Sections 228.202, 228.203, 228.207, and 228.208, Transportation Code, are repealed.

ARTICLE 4. CONTRACTING FUNCTIONS

SECTION 4.01. Subchapter A, Chapter 223, Transportation Code, is amended by adding Section 223.017 to read as follows:

Sec. 223.017. DESIGN-BUILD CONTRACTS FOR NONTOLLED HIGHWAY PROJECTS. (a) In this section, "design-build contract" means an agreement with a private entity for the design and construction, rehabilitation, expansion, or improvement of a highway project but does not include the financing or operation of the highway.

(b) The department may enter into a design-build contract for a nontolled highway project.

(c) Notwithstanding Section 223.0041, rules adopted under this section must be consistent in all procedural aspects, including limitations, with the design-build procedures for local governmental entities under Subchapter J, Chapter 271, Local

Government Code.

(c-1) Money disbursed by the department for design-build contracts under this section may not be included in the amount required to be spent in a biennium for engineering and design contracts under Section 223.041.

(d) The department shall adopt rules specifying the conditions under which a design-build contract may be considered. In developing rules the department must address:

(1) the size and complexity of an eligible project;

(2) the time constraints for delivery of an eligible project;

(3) the level and training of the staff required to manage an eligible project; and

(4) other factors the department considers important.

SECTION 4.02. (a) Subchapter E, Chapter 223, Transportation Code, is amended by adding Section 223.211 to read as follows:

Sec. 223.211. APPROVAL AND CERTIFICATION. A comprehensive development agreement, including a facility agreement under a comprehensive development agreement, under which a private entity will operate a toll project or be entitled to receive revenue from the project must be:

(1) reviewed by the attorney general for legal sufficiency under Section 371.051, as added by Chapter 264 (S.B. 792), Acts of the 80th Legislature, Regular Session, 2007, and signed by the attorney general, if approved;

(2) reviewed by the comptroller for financial

viability and signed and certified by the comptroller if approved; and

(3) signed by the commissioner.

(b) The change in law made by Section 223.211, Transportation Code, as added by this section, applies only to a comprehensive development agreement entered into on or after the effective date of this Act.

ARTICLE 5. REGULATION OF MOTOR VEHICLE DEALERS, SALVAGE VEHICLE DEALERS, AND HOUSEHOLD GOODS CARRIERS

SECTION 5.01. (a) Section 643.153, Transportation Code, is amended by amending Subsection (b) and adding Subsections (c), (h), and (i) to read as follows:

(b) The department may adopt rules necessary to ensure that a customer of a motor carrier transporting household goods is protected from deceptive or unfair practices and unreasonably hazardous activities. The rules must:

(1) establish a formal process for resolving a dispute over a fee or damage;

(2) require a motor carrier to indicate clearly to a customer whether an estimate is binding or nonbinding and disclose the maximum price a customer could be required to pay;

(3) create a centralized process for making complaints about a motor carrier that also allows a customer to inquire about a carrier's complaint record; [~~and~~]

(4) require a motor carrier transporting household goods to list a place of business with a street address in this state and the carrier's registration number issued under this

article in any print advertising published in this state; and

(5) require a motor carrier transporting household goods to submit to the department, at the time of the original motor carrier registration and at the renewal of the registration, documentation on whether the motor carrier:

(A) regularly requests and obtains criminal history record information on its employees under Chapter 145, Civil Practice and Remedies Code; and

(B) uses the criminal history record information to exclude from employment persons who have committed a serious criminal offense.

(c) The department shall make available to the public on the department's Internet website the information received under Subsection (b)(5) to allow members of the public to make an informed choice when selecting a motor carrier to transport household goods.

(h) Subject to Subsection (i), the department may order a motor carrier that transports household goods to pay a refund to a customer as provided in an agreement resulting from an informal settlement instead of or in addition to imposing an administrative penalty under this chapter.

(i) The amount of a refund ordered as provided in an agreement resulting from an informal settlement may not exceed the amount the customer paid to the motor carrier for a service or the amount the customer paid for an item damaged by the motor carrier, without requiring an estimation of the actual cost of the damage. The department may not require payment of other damages or estimate harm in a refund order.

(b) The change in law made by Sections 643.153(h) and (i), Transportation Code, as added by this section, applies only to an agreement to transport household goods entered into on or after the effective date of this Act. An agreement to transport household goods entered into before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 5.02. (a) Section 643.251(b), Transportation Code, is amended to read as follows:

(b) Except as provided by this section, the amount of an administrative penalty may not exceed $5,000. If it is found that the motor carrier knowingly committed the violation, the penalty may not exceed $15,000. [~~If it is found that the motor carrier knowingly committed multiple violations, the aggregate penalty for the multiple violations may not exceed $30,000.~~] Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(b) The change in law made by this section to Section 643.251, Transportation Code, applies only to a violation committed by a motor carrier on or after the effective date of this Act. For purposes of this subsection, a violation was committed before the effective date of this Act if any element of the violation was committed before that date. A violation committed by a motor carrier before the effective date of this Act is covered by the law in effect on the date the violation was committed, and the former law is continued in effect for that purpose.

SECTION 5.03. Subchapter F, Chapter 643, Transportation

Code, is amended by adding Sections 643.256 and 643.257 to read as follows:

Sec. 643.256. SUMMARY SUSPENSION. (a) The department may summarily suspend the registration of a motor carrier registered under this chapter if the motor carrier's failure to comply with this chapter or a rule adopted under this chapter is determined by the department to constitute a continuing and imminent threat to the public safety and welfare.

(b) To initiate a proceeding to take action under Subsection (a), the department must serve notice on the motor carrier. The notice must:

(1) state the grounds for summary suspension;

(2) be personally served on the motor carrier or sent to the motor carrier by certified or registered mail, return receipt requested, to the motor carrier's mailing address as it appears in the department's records; and

(3) inform the motor carrier of the right to a hearing on the suspension.

(c) The suspension is effective on the date notice is personally served or received by mail. The motor carrier is entitled to appeal the suspension in the manner provided by Section 643.2525 for the appeal of an order of the board.

Sec. 643.257. EMERGENCY CEASE AND DESIST ORDER. (a) If it appears to the board that a motor carrier who is not registered to transport household goods for compensation under Section 643.051 is violating this chapter, a rule adopted under this chapter, or another state statute or rule relating to the transportation of

household goods and the board determines that the unauthorized activity constitutes a clear, imminent, or continuing threat to the public health and safety, the board may:

(1) issue an emergency cease and desist order prohibiting the motor carrier from engaging in the activity; and

(2) report the activity to a local law enforcement agency or the attorney general for prosecution.

(b) An order issued under Subsection (a) must:

(1) be delivered on issuance to the motor carrier affected by the order by personal delivery or registered or certified mail, return receipt requested, to the motor carrier's last known address;

(2) state the acts or practices alleged to be an unauthorized activity and require the motor carrier immediately to cease and desist from the unauthorized activity; and

(3) contain a notice that a request for hearing may be filed under this section.

(c) A motor carrier against whom an emergency cease and desist order is directed may request a hearing before the 11th day after the date it is served on the motor carrier. If the motor carrier does not request a hearing in that time, the order is final and nonappealable as to that motor carrier. A request for a hearing must:

(1) be in writing and directed to the board; and

(2) state the grounds for the request to set aside or modify the order.

(d) On receiving a request for a hearing, the board shall

serve notice of the time and place of the hearing by personal delivery or registered or certified mail, return receipt requested. The hearing must be held not later than the 10th day after the date the board receives the request for a hearing unless the parties agree to a later hearing date. A hearing under this subsection is subject to Chapter 2001, Government Code.

(e) After the hearing, the board shall affirm, modify, or set aside wholly or partly the emergency cease and desist order. An order affirming or modifying the emergency cease and desist order is immediately final for purposes of enforcement and appeal.

(f) An order under this section continues in effect unless the order is stayed by the board. The board may impose any condition before granting a stay of the order.

(g) The board may release to the public a final cease and desist order issued under this section or information regarding the existence of the order if the board determines that the release would enhance the effective enforcement of the order or will serve the public interest.

(h) A violation of an order issued under this section constitutes additional grounds for imposing an administrative penalty under this chapter.

SECTION 5.04. Section 2301.654, Occupations Code, is amended to read as follows:

Sec. 2301.654. PROBATION. If a suspension of a license is probated, the board may:

(1) require the license holder to report regularly to the board on matters that are the basis of the probation; [~~or~~]

(2) limit activities to those prescribed by the board; or

(3) require the license holder to obtain specialized training so that the license holder attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.

SECTION 5.05. (a) Subchapter Q, Chapter 2301, Occupations Code, is amended by adding Sections 2301.807 and 2301.808 to read as follows:

Sec. 2301.807. ADMINISTRATIVE PENALTY. (a) The board may impose an administrative penalty on a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter.

(b) The amount of an administrative penalty imposed under this section may not exceed $5,000. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty. The amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the economic harm to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) the threat to the public safety and welfare;

(6) efforts to correct the violation; and

(7) any other matter that justice may require.

(c) The board by rule shall adopt a schedule of

administrative penalties based on the criteria listed in Subsection (b) for violations subject to an administrative penalty under this section to ensure that the amount of a penalty imposed is appropriate to the violation.

(d) The enforcement of an administrative penalty may be stayed during the time the order is under judicial review if the person pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. A person who cannot afford to pay the penalty or file the bond may stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of the board to contest the affidavit as provided by those rules.

(e) The attorney general may sue to collect an administrative penalty imposed under this section. In the suit the attorney general may recover, on behalf of the state, the reasonable expenses incurred in obtaining the penalty, including investigation and court costs, reasonable attorney's fees, witness fees, and other expenses.

(f) An administrative penalty collected under this section shall be deposited in the general revenue fund.

(g) A proceeding to impose an administrative penalty under this section is a contested case under Chapter 2001, Government Code.

Sec. 2301.808. REFUND. (a) Subject to Subsection (b), the board may order a motor vehicle dealer to pay a refund to a consumer as provided in an agreement resulting from an informal settlement

instead of or in addition to imposing an administrative penalty under this chapter.

(b) The amount of a refund ordered as provided in an agreement resulting from an informal settlement may not exceed the amount the consumer paid to the motor vehicle dealer. The board may not require payment of other damages or estimate harm in a refund order.

(b) Subchapter H, Chapter 2302, Occupations Code, is amended by adding Section 2302.352 to read as follows:

Sec. 2302.352. ADMINISTRATIVE PENALTY. (a) The board may impose an administrative penalty on a salvage vehicle dealer licensed under this chapter who violates this chapter or a rule or order adopted under this chapter.

(b) The amount of an administrative penalty imposed under this section may not exceed $5,000. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty. The amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the economic harm to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) the threat to the public safety and welfare;

(6) efforts to correct the violation; and

(7) any other matter that justice may require.

(c) The board by rule shall adopt a schedule of

administrative penalties based on the criteria listed in Subsection (b) for violations subject to an administrative penalty under this section to ensure that the amount of a penalty imposed is appropriate to the violation.

(d) The enforcement of an administrative penalty may be stayed during the time the order is under judicial review if the person pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. A person who cannot afford to pay the penalty or file the bond may stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of the board to contest the affidavit as provided by those rules.

(e) The attorney general may sue to collect an administrative penalty imposed under this section. In the suit the attorney general may recover, on behalf of the state, the reasonable expenses incurred in obtaining the penalty, including investigation and court costs, reasonable attorney's fees, witness fees, and other expenses.

(f) An administrative penalty collected under this section shall be deposited in the general revenue fund.

(g) A proceeding to impose an administrative penalty under this section is a contested case under Chapter 2001, Government Code.

(c) The change in law made by Section 2301.808, Occupations Code, as added by this section, applies only to a motor vehicle purchased or leased on or after the effective date of this Act. A

motor vehicle purchased or leased before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

ARTICLE 6. REGULATION OF OUTDOOR ADVERTISING

SECTION 6.01. Section 391.004, Transportation Code, is amended to read as follows:

Sec. 391.004. TEXAS HIGHWAY BEAUTIFICATION FUND ACCOUNT. The Texas highway beautification fund account is an account in the general revenue fund. Money the commission receives under this chapter shall be deposited to the credit of the Texas highway beautification fund account. The commission shall use money in the Texas highway beautification fund account to administer this chapter and Chapter 394.

SECTION 6.02. (a) Subchapter A, Chapter 391, Transportation Code, is amended by adding Section 391.006 to read as follows:

Sec. 391.006. COMPLAINTS; RECORDS. (a) The department by rule shall establish procedures for accepting and resolving written complaints related to outdoor advertising under this chapter. The rules must include:

(1) a process to make information available describing its procedures for complaint investigation and resolution, including making information about the procedures available on the department's Internet website;

(2) a simple form for filing complaints with the department;

(3) a system to prioritize complaints so that the most

serious complaints receive attention before less serious complaints; and

(4) a procedure for compiling and reporting detailed annual statistics about complaints.

(b) The department shall provide to each person who files a written complaint with the department, and to each person who is the subject of a complaint, information about the department's policies and procedures relating to complaint investigation and resolution.

(c) The department shall keep an information file about each written complaint filed with the department that the department has authority to resolve. The department shall keep the following information for each complaint for the purpose of enforcing this chapter:

(1) the date the complaint is filed;

(2) the name of the person filing the complaint;

(3) the subject matter of the complaint;

(4) each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) if the department does not take action on the complaint, an explanation of the reasons that action was not taken.

(d) If a written complaint is filed with the department that the department has authority to resolve, the department, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an ongoing department

investigation.

(b) The Texas Transportation Commission shall adopt rules under Section 391.006, Transportation Code, as added by this section, not later than September 1, 2010.

SECTION 6.03. Subchapter A, Chapter 391, Transportation Code, is amended by adding Section 391.007 to read as follows:

Sec. 391.007. REQUEST FOR HEARING. (a) If the department revokes a permit issued under this chapter, denies the application for a permit submitted under this chapter, or issues an administrative penalty under this chapter, the department shall send written notice by certified mail to the affected person.

(b) Not later than the 30th day after the date a person receives notice under Subsection (a), the person may make a written request to the commission for an administrative hearing to appeal:

(1) the denial of a permit application submitted under this chapter;

(2) the revocation of a permit issued under this chapter; or

(3) the imposition of an administrative penalty under this chapter.

(c) If a person requests a hearing under this section, the hearing shall be conducted by the State Office of Administrative Hearings. Chapter 2001, Government Code, applies to a proceeding under this chapter to the extent consistent with this chapter.

(d) The State Office of Administrative Hearings shall consider the department's applicable substantive rules and policies when conducting a hearing under this section.

(e) After a hearing conducted under this section, the administrative law judge shall:

(1) make findings of fact and conclusions of law; and

(2) promptly issue a decision to the commission.

SECTION 6.04. Subchapter B, Chapter 391, Transportation Code, is amended by adding Section 391.0331 to read as follows:

Sec. 391.0331. COSTS OF REMOVAL OF CERTAIN OUTDOOR ADVERTISING IN MUNICIPALITY. If outdoor advertising located in a municipality or in the extraterritorial jurisdiction of a municipality that regulates outdoor advertising in its extraterritorial jurisdiction is required to be removed because of the widening, construction, or reconstruction of a road to which this chapter applies and if relocation of the outdoor advertising would be allowed under commission rules but is prohibited by charter, ordinance, or a decision of the municipality, the municipality shall pay just compensation to:

(1) the owner for the right, title leasehold, and interest in the outdoor advertising; and

(2) the owner or, if appropriate, the lessee of the real property on which the outdoor advertising is located for the right to erect and maintain the outdoor advertising.

SECTION 6.05. Section 391.035(c), Transportation Code, is amended to read as follows:

(c) A penalty collected under this section shall be deposited to the credit of the Texas highway beautification [~~state highway~~] fund account if collected by the attorney general and to the credit of the county road and bridge fund of the county in which

the violation occurred if collected by a district or county attorney.

SECTION 6.06. Subchapter B, Chapter 391, Transportation Code, is amended by adding Section 391.0355 to read as follows:

Sec. 391.0355. ADMINISTRATIVE PENALTY. (a) In lieu of a suit to collect a civil penalty, the commission, after notice and an opportunity for a hearing before the commission, may impose an administrative penalty against a person who violates this chapter or a rule adopted by the commission under this chapter. Each day a violation continues is a separate violation.

(b) The amount of the administrative penalty may not exceed the maximum amount of a civil penalty under Section 391.035.

(c) A proceeding under this section is a contested case under Chapter 2001, Government Code.

(d) Judicial review of an appeal of an administrative penalty imposed under this section is under the substantial evidence rule.

(e) An administrative penalty collected under this section shall be deposited to the credit of the Texas highway beautification fund account.

SECTION 6.07. Section 391.063, Transportation Code, is amended to read as follows:

Sec. 391.063. LICENSE FEE. The commission may set the amount of a license fee according to a scale graduated by the number of units of outdoor advertising and number of off-premise signs under Chapter 394 owned by a license applicant.

SECTION 6.08. Section 391.064, Transportation Code, is

amended by adding Subsection (c) to read as follows:

(c) A person is not required to file with the commission a surety bond for outdoor advertising under this chapter if the person files with the commission a surety bond for an off-premise sign under Chapter 394.

SECTION 6.09. Section 391.065(b), Transportation Code, is amended to read as follows:

(b) For the efficient management and administration of this chapter and to reduce the number of employees required to enforce this chapter, the commission shall adopt rules for issuing standardized forms that are for submission by license holders and applicants and that provide for an accurate showing of the number, location, or other information required by the commission for each license holder's or applicant's outdoor advertising or off-premise signs under Chapter 394.

SECTION 6.10. Section 391.066, Transportation Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) The commission may deny the renewal of a license holder's license if the license holder has not complied with the permit requirements of this chapter or Chapter 394.

(e) The commission by rule shall adopt procedures for the suspension, revocation, or denial of a renewal of a license under this section, or the assessment of an administrative penalty under Section 391.0355. The procedures must ensure that the enforcement action is appropriate for the violation for which it is taken. The rules adopting the procedures must require the commission to consider:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the economic harm to property or the environment caused by the violation;

(3) the history of previous violations;

(4) for an administrative penalty, the amount necessary to deter future violations;

(5) the threat to the public safety and welfare posed by the violation;

(6) efforts to correct the violation; and

(7) any other matter that justice may require.

SECTION 6.11. Subchapter C, Chapter 391, Transportation Code, is amended by adding Section 391.0661 to read as follows:

Sec. 391.0661. APPLICABILITY OF LICENSE. In addition to authorizing a person to erect or maintain outdoor advertising, a license issued under this chapter authorizes a person to erect or maintain an off-premise sign under Chapter 394.

SECTION 6.12. Section 391.254(c), Transportation Code, is amended to read as follows:

(c) A civil penalty collected by the attorney general under this section shall be deposited to the credit of the Texas highway beautification [~~state highway~~] fund account.

SECTION 6.13. Section 394.005, Transportation Code, is amended to read as follows:

Sec. 394.005. DISPOSITION OF FEES. Money the commission receives [~~A registration fee collected~~] under this chapter [~~Section 394.048 by the commission~~] shall be deposited to the credit of the

Texas highway beautification [~~state highway~~] fund account.

SECTION 6.14. (a) Subchapter A, Chapter 394, Transportation Code, is amended by adding Section 394.006 to read as follows:

Sec. 394.006. COMPLAINTS; RECORDS. (a) The department by rule shall establish procedures for accepting and resolving written complaints related to signs under this chapter. The rules must include:

(1) a process to make information available describing its procedures for complaint investigation and resolution, including making information about the procedures available on the department's Internet website;

(2) a simple form for filing complaints with the department;

(3) a system to prioritize complaints so that the most serious complaints receive attention before less serious complaints; and

(4) a procedure for compiling and reporting detailed annual statistics about complaints.

(b) The department shall provide to each person who files a written complaint with the department, and to each person who is the subject of a complaint, information about the department's policies and procedures relating to complaint investigation and resolution.

(c) The department shall keep an information file about each written complaint filed with the department that the department has authority to resolve. The department shall keep the following information for each complaint for the purpose of enforcing this

chapter:

(1) the date the complaint is filed;

(2) the name of the person filing the complaint;

(3) the subject matter of the complaint;

(4) each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) if the department does not take action on the complaint, an explanation of the reasons that action was not taken.

(d) If a written complaint is filed with the department that the department has authority to resolve, the department, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an ongoing department investigation.

(b) The Texas Transportation Commission shall adopt rules under Section 394.006, Transportation Code, as added by this section, not later than September 1, 2010.

SECTION 6.15. Subchapter A, Chapter 394, Transportation Code, is amended by adding Section 394.007 to read as follows:

Sec. 394.007. COSTS FOR REMOVAL OF SIGNS IN CERTAIN MUNICIPALITIES. If a sign located in a municipality or in the extraterritorial jurisdiction of a municipality that regulates signs in its extraterritorial jurisdiction is required to be removed because of the widening, construction, or reconstruction of a road to which this chapter applies and if relocation of the sign

would be allowed under commission rules but is prohibited by charter, ordinance, or a decision of the municipality, the municipality shall pay just compensation to:

(1) the owner for the right, title leasehold, and interest in the sign; and

(2) the owner or, if appropriate, the lessee of the real property on which the sign is located for the right to erect and maintain the sign.

SECTION 6.16. The heading to Subchapter B, Chapter 394, Transportation Code, is amended to read as follows:

SUBCHAPTER B. LICENSE AND PERMIT FOR OFF-PREMISE SIGN

SECTION 6.17. (a) Subchapter B, Chapter 394, Transportation Code, is amended by adding Sections 394.0201, 394.0202, 394.0203, 394.0204, 394.0205, 394.0206, 394.0207, 394.027, 394.028, and 394.029 to read as follows:

Sec. 394.0201. ERECTING OFF-PREMISE SIGN WITHOUT LICENSE; OFFENSE. (a) A person commits an offense if the person wilfully erects or maintains an off-premise sign on a rural road without a license under this subchapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $500 or more than $1,000. Each day of the proscribed conduct is a separate offense.

(c) A person is not required to obtain a license to erect or maintain an on-premise sign.

Sec. 394.0202. ISSUANCE AND PERIOD OF LICENSE. (a) The commission shall issue a license to a person who:

(1) files with the commission a completed application

form within the time specified by the commission;

(2) pays the appropriate license fee; and

(3) files with the commission a surety bond.

(b) A license may be issued for one year or longer.

(c) At least 30 days before the date on which a person's license expires, the commission shall notify the person of the impending expiration. The notice must be in writing and sent to the person's last known address according to the records of the commission.

Sec. 394.0203. LICENSE FEE. The commission may set the amount of a license fee according to a scale graduated by the number of off-premise signs and units of outdoor advertising under Chapter 391 owned by a license applicant.

Sec. 394.0204. SURETY BOND. (a) The surety bond required of an applicant for a license under Section 394.0202 must be:

(1) in the amount of $2,500 for each county in the state in which the person erects or maintains an off-premise sign; and

(2) payable to the commission for reimbursement for removal costs of an off-premise sign that the license holder unlawfully erects or maintains.

(b) A person may not be required to provide more than $10,000 in surety bonds.

(c) A person is not required to file with the commission a surety bond for an off-premise sign under this chapter if the person files with the commission a surety bond for outdoor advertising under Chapter 391.

Sec. 394.0205. RULES; FORMS. (a) The commission may adopt rules to implement Sections 394.0201(a), 394.0202, 394.0203, 394.0204, and 394.0206.

(b) For the efficient management and administration of this chapter and to reduce the number of employees required to enforce this chapter, the commission shall adopt rules for issuing standardized forms that are for submission by license holders and applicants and that provide for an accurate showing of the number, location, or other information required by the commission for each license holder's or applicant's off-premise signs or outdoor advertising under Chapter 391.

Sec. 394.0206. REVOCATION OR SUSPENSION OF LICENSE; APPEAL. (a) The commission may revoke or suspend a license issued under this subchapter or place on probation a license holder whose license is suspended if the license holder violates this chapter or a rule adopted under this chapter. If the suspension of the license is probated, the department may require the license holder to report regularly to the commission on any matter that is the basis of the probation.

(b) The judicial appeal of the revocation or suspension of a license must be initiated not later than the 15th day after the date of the commission's action.

(c) The commission may adopt rules for the reissuance of a revoked or suspended license and may set fees for the reissuance.

(d) The commission may deny the renewal of a license holder's existing license if the license holder has not complied with the permit requirements of this chapter or Chapter 391.

(e) The commission by rule shall adopt procedures for the suspension, revocation, or denial of a renewal of a license under this section, or the assessment of an administrative penalty under Section 394.082. The procedures must ensure that the enforcement action is appropriate for the violation for which it is taken. The rules adopting the procedures must require the commission to consider:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the economic harm to property or the environment caused by the violation;

(3) the history of previous violations;

(4) for an administrative penalty, the amount necessary to deter future violations;

(5) the threat to the public safety and welfare posed by the violation;

(6) efforts to correct the violation; and

(7) any other matter that justice may require.

Sec. 394.0207. APPLICABILITY OF LICENSE. In addition to authorizing a person to erect or maintain an off-premise sign, a license issued under this chapter authorizes a person to erect or maintain outdoor advertising under Chapter 391.

Sec. 394.027. FEE AMOUNTS. The license and permit fees required by this subchapter may not exceed an amount reasonably necessary to cover the administrative costs incurred to enforce this chapter.

Sec. 394.028. EXCEPTIONS FOR CERTAIN NONPROFIT

ORGANIZATIONS. (a) The combined license and permit fees under this subchapter may not exceed $10 for an off-premise sign erected and maintained by a nonprofit organization in a municipality or a municipality's extraterritorial jurisdiction if the sign relates to or promotes only the municipality or a political subdivision whose jurisdiction is wholly or partly concurrent with the municipality.

(b) The nonprofit organization is not required to file a bond as provided by Section 394.0202(a)(3).

Sec. 394.029. DENIAL OF PERMIT; APPEAL. The commission may create a process by which an applicant may appeal a denial of a permit under this subchapter.

(b) The change in law made by Section 394.0201, Transportation Code, as added by this section, applies only to an off-premise sign erected or for which a permit is issued or renewed on or after the effective date of this Act. An off-premise sign for which a permit is issued before the effective date of this Act is covered by the law in effect when the permit was issued, and the former law is continued in effect for that purpose.

SECTION 6.18. Section 394.050, Transportation Code, is amended to read as follows:

Sec. 394.050. [~~BOARD OF~~] VARIANCE. The executive director or a person designated by the executive director [~~commission shall provide for a board of variance that~~], in an appropriate case and subject to an appropriate condition or safeguard, may make a special exception to this chapter regarding a permit for an off-premise outdoor sign on a rural road.

SECTION 6.19. Section 394.081(c), Transportation Code, is amended to read as follows:

(c) A civil penalty collected under this section shall be deposited to the credit of the Texas highway beautification [~~state highway~~] fund account if collected by the attorney general and to the credit of the county road and bridge fund if collected by a district or county attorney.

SECTION 6.20. Sections 394.082(a), (d), and (e), Transportation Code, are amended to read as follows:

(a) In lieu of a suit to collect a civil penalty, the commission, after notice and an opportunity for a hearing before the commission, may impose an administrative penalty against a person who [~~intentionally~~] violates this chapter or a rule adopted by the commission under this chapter. Each day a violation continues is a separate violation.

(d) Judicial review of an appeal of an administrative penalty imposed under this section is under the substantial evidence rule [~~by trial de novo~~].

(e) An administrative penalty collected under this section shall be deposited to the credit of the Texas highway beautification [~~state highway~~] fund account.

SECTION 6.21. Subchapter E, Chapter 394, Transportation Code, is amended by adding Section 394.088 to read as follows:

Sec. 394.088. ADMINISTRATIVE HEARING. (a) If the department denies a permit application submitted under this chapter, or issues an administrative penalty under this chapter and under a section other than Section 394.086, the department shall

send written notice by certified mail to the affected person.

(b) Not later than the 30th day after the date a person receives notice under Subsection (a), that person may make a written request to the commission for an administrative hearing to appeal:

(1) the denial of a permit application submitted under this chapter;

(2) the revocation of a permit issued under this chapter; or

(3) the imposition of an administrative penalty under this chapter.

(c) If a person requests a hearing under this section, the hearing shall be conducted by the State Office of Administrative Hearings. Chapter 2001, Government Code, applies to a proceeding under this chapter to the extent consistent with this chapter.

(d) The State Office of Administrative Hearings shall consider the department's applicable substantive rules and policies when conducting a hearing under this section.

(e) After a hearing conducted under this section, the administrative law judge shall:

(1) make findings of fact and conclusions of law; and

(2) promptly issue a decision to the commission.

SECTION 6.22. Subtitle H, Title 6, Transportation Code, is amended by adding Chapter 398 to read as follows:

CHAPTER 398. PROVISIONS GENERALLY APPLICABLE TO OUTDOOR SIGNS

Sec. 398.001. DEFINITION. In this chapter, "off-premise sign" means an outdoor sign displaying advertising that pertains to

a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located.

Sec. 398.002. RIGHTS OF OWNER OF CERTAIN SIGNS. The rights associated with an off-premise sign that is lawfully in existence but no longer complies with current applicable laws and regulations, including laws and regulations promulgated under Chapters 391 and 394 of this code, and Chapter 216, Local Government Code, vest in the owner of the off-premise sign. This section does not abrogate or otherwise affect the property rights of a party in an eminent domain proceeding.

SECTION 6.23. Section 391.065(c), Transportation Code, is repealed.

ARTICLE 7. GREEN RIBBON PROJECT

SECTION 7.01. Subchapter I, Chapter 201, Transportation Code, is amended by adding Section 201.708 to read as follows:

Sec. 201.708. EXPENDITURES FOR HIGHWAY LANDSCAPING. (a) For each contract for a highway project that is located in an area designated by the United States Environmental Protection Agency as a nonattainment or near-nonattainment area under Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407), the department shall allocate to the district or districts in which the project is to be located one-half of one percent of the total amount to be spent under the contract for construction, maintenance, and improvement of the project to be used for landscaping improvements for the project or other projects in the district or districts.

(b) Landscaping improvements may include:

(1) planting of indigenous or adapted trees and other plants that are suitable for the climate in the area; and

(2) preparing the soil and installing irrigation systems for the growth of trees and plants.

SECTION 7.02. Chapter 371, Transportation Code, as added by Chapter 103 (H.B. 570), Acts of the 80th Legislature, Regular Session, 2007, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. CONSTRUCTION, IMPROVEMENT, AND MAINTENANCE

Sec. 371.101. EXPENDITURES FOR TOLL PROJECT LANDSCAPING. (a) For each contract for a toll project that is located in an area designated by the United States Environmental Protection Agency as a nonattainment or near-nonattainment area under Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407), the toll project entity shall allocate to the district or districts in which the project is to be located an amount equal to one-half of one percent of the total amount to be spent under the contract for construction, maintenance, and improvement of the project to be used for landscaping improvements for the project or other projects in the district or districts.

(b) Landscaping improvements may include:

(1) planting indigenous or adapted trees and other plants that are suitable for the climate in the area; and

(2) preparing the soil and installing irrigation systems for the growth of trees and plants.

ARTICLE 8. TEXAS DEPARTMENT OF MOTOR VEHICLES

PART 1. GENERAL PROVISIONS

SECTION 8.1.01. Title 7, Transportation Code, is amended by

adding Subtitle M to read as follows:

SUBTITLE M. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 1001. ORGANIZATION OF DEPARTMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1001.001. DEFINITIONS. In this subtitle:

(1) "Board" means the board of the department.

(2) "Department" means the Texas Department of Motor Vehicles.

Sec. 1001.002. CREATION OF DEPARTMENT; DUTIES. (a) The department is created as an agency of this state.

(b) In addition to the other duties required of the Texas Department of Motor Vehicles, the department shall administer and enforce:

(1) Subtitle A;

(2) Subtitle E;

(3) Chapters 642, 643, 645, 646, and 648; and

(4) Chapters 2301 and 2302, Occupations Code.

Sec. 1001.003. COMPOSITION OF DEPARTMENT. The department is composed of an executive director appointed by the board and other employees required to efficiently implement:

(1) this subtitle;

(2) other applicable vehicle laws of this state; and

(3) other laws that grant jurisdiction to or are applicable to the department.

Sec. 1001.004. DIVISIONS. The board shall organize the department into divisions to accomplish the department's functions and the duties assigned to it, including divisions for:

(1) administration;

(2) motor carriers;

(3) motor vehicles; and

(4) vehicle titles and registration.

Sec. 1001.005. ADVISORY COMMITTEES. (a) The board shall establish separate advisory committees for the motor carrier, motor vehicles, and vehicle titles and registration divisions to make recommendations to the board or the executive director on the operation of the applicable division. A committee has the purposes, powers, and duties, including the manner of reporting its work, prescribed by the board. A committee and each committee member serves at the will of the board.

(b) The board shall appoint persons to each advisory committee who:

(1) are selected from a list provided by the executive director; and

(2) have knowledge about and interests in, and represent a broad range of viewpoints about, the work of the committee or applicable division.

(c) The advisory committee for the motor vehicles division must include a member to represent motor vehicle manufacturers and a member to represent the recreational vehicle industry.

(d) The advisory committee for the motor carrier division must include a member to represent the motor transportation industry.

(e) A member of an advisory committee may not be compensated by the board or the department for committee service.

Sec. 1001.006. SUNSET PROVISION. The department is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2015.

[Sections 1001.007-1001.020 reserved for expansion]

SUBCHAPTER B. BOARD OF DEPARTMENT OF MOTOR VEHICLES

Sec. 1001.021. BOARD. (a) The board consists of nine members appointed by the governor with the advice and consent of the senate.

(b) The membership of the board must include:

(1) three members who are persons who hold a dealer's license issued under Chapter 2301, Occupations Code, of whom:

(A) two members must be franchised dealers of different classes; and

(B) one member must be an independent dealer;

(2) one member who is a representative of a manufacturer or distributor that holds a license issued under Chapter 2301, Occupations Code;

(3) one member who is a tax assessor-collector;

(4) one member who is a representative of a law enforcement agency of a county or municipality;

(5) one member who is a representative of the motor carrier industry; and

(6) two members who are public members.

(c) A person may not be a public member of the board if the person or the person's spouse:

(1) is registered, certified, or licensed by the

department;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the department;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the department; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the department other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

Sec. 1001.022. TERMS. Members of the board serve staggered six-year terms, with the terms of either one or two members expiring February 1 of each odd-numbered year.

Sec. 1001.023. PRESIDING OFFICER OF BOARD. (a) The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the pleasure of the governor.

(b) The presiding officer shall:

(1) preside over board meetings, make rulings on motions and points of order, and determine the order of business;

(2) create subcommittees, appoint board members to subcommittees, and receive the reports of subcommittees to the board as a whole; and

(3) appoint a member of the board to act in the presiding officer's absence.

Sec. 1001.024. BOARD MEETINGS. The board shall hold regular meetings at least quarterly or at the call of the presiding officer. Board members shall attend the meetings of the board. The presiding officer shall oversee the preparation of an agenda for each meeting and ensure that a copy is provided to each board member at least seven days before the meeting.

Sec. 1001.025. COMPENSATION. A member of the board is not entitled to compensation, but each member is entitled to reimbursement for actual and necessary expenses as provided by the General Appropriations Act.

Sec. 1001.026. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the board that a board member:

(1) does not have at the time of taking office the qualifications required by Section 1001.021;

(2) does not maintain during service on the board the qualifications required by Section 1001.021;

(3) is ineligible for membership under Section 1001.021(c), 1007.002, or 1007.003;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member

exists.

(c) If the executive director of the department has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 1001.027. TRAINING ON DEPARTMENT AND CERTAIN LAWS RELATING TO DEPARTMENT. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the department;

(2) the programs, functions, rules, and budget of the department;

(3) the results of the most recent formal audit of the department;

(4) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and

(5) any applicable ethics policies adopted by the department or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Sec. 1001.028. TECHNOLOGICAL SOLUTIONS. The board shall implement a policy requiring the department to use appropriate technological solutions to improve the department's ability to perform its functions. The policy must ensure that the public is able to interact with the department on the Internet.

Sec. 1001.029. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of department rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the department's jurisdiction.

(b) The department's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The board shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the department.

[Sections 1001.030-1001.040 reserved for expansion]

SUBCHAPTER C. PERSONNEL

Sec. 1001.041. DIVISION OF RESPONSIBILITIES. The board shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the executive director and the staff of the department.

CHAPTER 1002. RULES

Sec. 1002.001. GENERAL RULEMAKING AUTHORITY. The board may adopt any rules necessary and appropriate to implement the powers and duties of the department under this code and other laws of this state.

[Chapters 1003-1005 reserved for expansion]

CHAPTER 1006. PUBLIC ACCESS

Sec. 1006.001. PUBLIC COMMENT. The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the department.

Sec. 1006.002. COMPLAINT PROCEDURES. (a) The department shall maintain a system to promptly and efficiently act on

complaints filed with the department. The department shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The department shall make information available describing its procedures for complaint investigation and resolution.

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

CHAPTER 1007. STANDARDS OF CONDUCT

Sec. 1007.001. APPLICATION OF LAW RELATING TO ETHICAL CONDUCT. The board, the executive director, and each employee or agent of the department is subject to the code of ethics and the standard of conduct imposed by Chapter 572, Government Code, and any other law regulating the ethical conduct of state officers and employees.

Sec. 1007.002. CONFLICTS OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board and may not be a department employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29

U.S.C. Section 201 et seq.) if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the motor vehicle or motor carrier industry or of a tax assessor-collector or law enforcement trade association; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the motor vehicle or motor carrier industry or of a tax assessor-collector or law enforcement trade association.

(c) A person may not be a member of the board or act as the general counsel to the board or the department if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department.

Sec. 1007.003. LOBBYING ACTIVITIES. A person may not serve as the executive director or act as the general counsel to the department if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of an occupation related to the operation of the department.

PART 2. TRANSFER OF DUTIES AND FUNCTIONS OF THE TEXAS DEPARTMENT OF TRANSPORTATION

SUBPART A. GENERAL PROVISIONS AND ADMINISTRATION

SECTION 8.2A.01. Section 201.931(2), Transportation Code, is amended to read as follows:

(2) "License" includes[~~+~~

[~~(A) a permit issued by the department that~~

~~authorizes the operation of a vehicle and its load or a combination of vehicles and load exceeding size or weight limitations;~~

[~~(B) a motor carrier registration issued under Chapter 643;~~

[~~(C) a vehicle storage facility license issued under Chapter 2303, Occupations Code;~~

[~~(D)~~] a license or permit for outdoor advertising issued under Chapter 391 or 394[~~;~~

[~~(E) a salvage vehicle dealer or agent license issued under Chapter 2302, Occupations Code;~~

[~~(F) specially designated or specialized license plates issued under Subchapters E and F, Chapter 502; and~~

[~~(G) an apportioned registration issued according to the International Registration Plan under Section 502.054~~].

SUBPART B. STATE HIGHWAY TOLL PROJECTS

SECTION 8.2B.01. Sections 228.055(b) and (h), Transportation Code, are amended to read as follows:

(b) The department may impose and collect the administrative fee, so as to recover the cost of collecting the unpaid toll, not to exceed $100. The department 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 Texas Department of Motor Vehicles [~~department~~] by first class mail 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 Section 228.054.

(h) In this section, "registered owner" means the owner of a vehicle as shown on the vehicle registration records of the Texas Department of Motor Vehicles [~~department~~] or the analogous department or agency of another state or country.

SECTION 8.2B.02. Section 228.056(b), Transportation Code, is amended to read as follows:

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

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

(2) a computer record of the Texas Department of Motor Vehicles [~~department~~] of the registered owner of the vehicle is prima facie evidence of its contents and that the defendant was the registered owner of the vehicle when the underlying event of nonpayment under Section 228.054 occurred; and

(3) a copy of the rental, lease, or other contract document covering the vehicle on the date of the underlying event of nonpayment under Section 228.054 is prima facie evidence of its contents and that the defendant was the lessee of the vehicle when the underlying event of nonpayment under Section 228.054 occurred.

SUBPART C. CAUSEWAYS, BRIDGES, TUNNELS, TURNPIKES, FERRIES, AND HIGHWAYS IN CERTAIN COUNTIES

SECTION 8.2C.01. Sections 284.0701(b), (e), and (h), Transportation Code, are amended to read as follows:

(b) The county may impose and collect the administrative cost so as to recover the expense of collecting the unpaid toll, not

to exceed $100. The county 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 Texas Department of Motor Vehicles [~~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 cost for each event of nonpayment under Section 284.070.

(e) It is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle transferred ownership of the vehicle to another person before the event of nonpayment under Section 284.070 occurred, submitted written notice of the transfer to the Texas Department of Motor Vehicles [~~department~~] in accordance with Section 520.023, and before the 30th day after the date the notice of nonpayment is mailed, provides to the county the name and address of the person to whom the vehicle was transferred. If the former owner of the vehicle provides the required information within the period prescribed, the county may send a notice of nonpayment to the person to whom ownership of the vehicle was transferred at the address provided by the former owner by first-class mail before the 30th day after the date of receipt of the required information from the former owner. The subsequent owner of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative cost within the time specified by the notice of nonpayment commits an offense. The

subsequent owner shall pay a separate toll and administrative cost for each event of nonpayment under Section 284.070. Each failure to pay a toll or administrative cost under this subsection is a separate offense.

(h) In this section, "registered owner" means the owner of a vehicle as shown on the vehicle registration records of the Texas Department of Motor Vehicles [~~department~~] or the analogous department or agency of another state or country.

SUBPART D. CERTIFICATE OF TITLE ACT

SECTION 8.2D.01. Section 501.002(3), Transportation Code, is amended to read as follows:

(3) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SUBPART E. REGISTRATION OF VEHICLES

SECTION 8.2E.01. Section 502.001(3), Transportation Code, is amended to read as follows:

(3) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 8.2E.02. Sections 502.053(a) and (b), Transportation Code, are amended to read as follows:

(a) The department [~~Texas Department of Transportation~~] shall reimburse the Texas Department of Criminal Justice for the cost of manufacturing license plates or registration insignia as the license plates or insignia and the invoice for the license plates or insignia are delivered to the department [~~Texas Department of Transportation~~].

(b) When manufacturing is started, the Texas Department of

Criminal Justice, the department [~~Texas Department of Transportation~~], and the comptroller, after negotiation, shall set the price to be paid for each license plate or insignia. The price must be determined from:

(1) the cost of metal, paint, and other materials purchased;

(2) the inmate maintenance cost per day;

(3) overhead expenses;

(4) miscellaneous charges; and

(5) a previously approved amount of profit for the work.

SUBPART F. DEALER'S AND MANUFACTURER'S VEHICLE LICENSE PLATES

SECTION 8.2F.01. Section 503.001(5), Transportation Code, is amended to read as follows:

(5) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 8.2F.02. Section 503.003, Transportation Code, is amended to read as follows:

Sec. 503.003. DISPLAY OR SALE OF NONMOTORIZED VEHICLE OR TRAILER. This chapter does not prohibit the display or sale of a nonmotorized vehicle or trailer at a regularly scheduled vehicle or boat show with multiple vendors in accordance with [~~commission~~] rules of the board of the Texas Department of Motor Vehicles.

SECTION 8.2F.03. Section 503.009(c), Transportation Code, is amended to read as follows:

(c) A decision or final order issued under this section is final and may not be appealed, as a matter of right, to the board of

the Texas Department of Motor Vehicles [~~commission~~].

SECTION 8.2F.04. Sections 503.010 and 503.011, Transportation Code, are amended to read as follows:

Sec. 503.010. TERM OF GENERAL DISTINGUISHING NUMBER, LICENSE, OR LICENSE PLATE. Each general distinguishing number, license, or license plate issued under this chapter is valid for the period prescribed by the board of the Texas Department of Motor Vehicles [~~commission~~].

Sec. 503.011. PRORATING FEES. If the board of the Texas Department of Motor Vehicles [~~commission~~] prescribes the term of a general distinguishing number, license, or license plate under this chapter for a period other than one year, the board of the Texas Department of Motor Vehicles [~~commission~~] shall prorate the applicable annual fee required under this chapter as necessary to reflect the term of the number, license, or license plate.

SECTION 8.2F.05. Section 503.031(a), Transportation Code, is amended to read as follows:

(a) An applicant for a drive-a-way in-transit license must submit to the board of the Texas Department of Motor Vehicles [~~commission~~] an application containing the information required by the board of the Texas Department of Motor Vehicles [~~commission~~].

SECTION 8.2F.06. Section 503.001(2), Transportation Code, is repealed.

SUBPART G. MISCELLANEOUS PROVISIONS

SECTION 8.2G.01. Section 520.001, Transportation Code, is amended to read as follows:

Sec. 520.001. DEFINITION. In this chapter, "department"

means the Texas Department of Motor Vehicles [~~Transportation~~].

SUBPART H. OPERATION OF BICYCLES, MOPEDS, AND PLAY VEHICLES

SECTION 8.2H.01. Section 551.302, Transportation Code, is amended to read as follows:

Sec. 551.302. REGISTRATION. The Texas Department of Motor Vehicles [~~Transportation~~] may adopt rules relating to the registration and issuance of license plates to neighborhood electric vehicles.

SUBPART I. MOTOR VEHICLE SAFETY RESPONSIBILITY ACT

SECTION 8.2I.01. Section 601.023, Transportation Code, is amended to read as follows:

Sec. 601.023. PAYMENT OF STATUTORY FEES. The department may pay:

(1) a statutory fee required by the Texas Department of Motor Vehicles [~~Transportation~~] for a certified abstract or in connection with suspension of a vehicle registration; or

(2) a statutory fee payable to the comptroller for issuance of a certificate of deposit required by Section 601.122.

SECTION 8.2I.02. Section 601.451, Transportation Code, as added by Chapter 892 (S.B. 1670), Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

Sec. 601.451. DEFINITION. In this subchapter, "implementing agencies" means:

(1) the department;

(2) the Texas Department of Motor Vehicles [~~Transportation~~];

(3) the Texas Department of Insurance; and

(4) the Department of Information Resources.

SECTION 8.2I.03. Subchapter N, Chapter 601, Transportation Code, as added by Chapter 1325 (H.B. 3588), Acts of the 78th Legislature, Regular Session, 2003, is repealed.

SUBPART J. GENERAL PROVISIONS RELATING TO VEHICLE SIZE AND WEIGHT

SECTION 8.2J.01. Sections 621.001(2), (3), and (4), Transportation Code, are amended to read as follows:

(2) "Board" [~~"Commission"~~] means the board of the Texas Department of Motor Vehicles [~~Transportation Commission~~].

(3) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

(4) "Director" means the executive director of the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 8.2J.02. Section 621.003(a), Transportation Code, is amended to read as follows:

(a) The board [~~commission~~] by rule may authorize the director to enter into with the proper authority of another state an agreement that authorizes:

(1) the authority of the other state to issue on behalf of the department to the owner or operator of a vehicle, or combination of vehicles, that exceeds the weight or size limits allowed by this state a permit that authorizes the operation or transportation on a highway in this state of the vehicle or combination of vehicles; and

(2) the department to issue on behalf of the authority of the other state to the owner or operator of a vehicle, or combination of vehicles, that exceeds the weight or size limits

allowed by that state a permit that authorizes the operation or transportation on a highway of that state of the vehicle or combination of vehicles.

SECTION 8.2J.03. Subchapter A, Chapter 621, Transportation Code, is amended by adding Section 621.008 to read as follows:

Sec. 621.008. STUDY REGARDING OVERSIZE AND OVERWEIGHT VEHICLES. (a) In this section, "division" means the motor carrier division of the Texas Department of Motor Vehicles.

(b) The division and the Texas Department of Transportation shall conduct a joint study to determine improvements to the regulation of oversize and overweight vehicles.

(c) In conducting the study, the division and the Texas Department of Transportation shall consider:

(1) prohibiting overweight vehicles or vehicle combinations from traveling on state highways if the vehicle or combination will cause damage to a road or bridge, based on the weight or load specifications to which the road or bridge was built;

(2) requiring each applicant for a permit under Chapter 623 to pay a graduated highway maintenance fee based on weight and the amount of damage done by the permitted vehicle or vehicle combination to roads and bridges;

(3) requiring each fee collected for an overweight or oversize vehicle permit to be deposited in the state highway fund; and

(4) eliminating all exemptions for overweight vehicles.

(d) Not later than September 1, 2010, the division and the

Texas Department of Transportation shall report the results of the study conducted under this section to the governor, the lieutenant governor, the speaker of the house of representatives, and the appropriate oversight committee of each house of the legislature.

(e) This section expires September 1, 2011.

SECTION 8.2J.04. Section 621.102, Transportation Code, is amended to read as follows:

Sec. 621.102. BOARD'S [~~COMMISSION'S~~] AUTHORITY TO SET MAXIMUM WEIGHTS. (a) The board [~~commission~~] may set the maximum single axle weight, tandem axle weight, or gross weight of a vehicle, or maximum single axle weight, tandem axle weight, or gross weight of a combination of vehicles and loads, that may be moved over a state highway or a farm or ranch road if the board [~~commission~~] finds that heavier maximum weight would rapidly deteriorate or destroy the road or a bridge or culvert along the road. A maximum weight set under this subsection may not exceed the maximum set by statute for that weight.

(b) The board [~~commission~~] must set a maximum weight under this section by order entered in its minutes.

(c) The board [~~commission~~] must make the finding under this section on an engineering and traffic investigation and in making the finding shall consider the width, condition, and type of pavement structures and other circumstances on the road.

(d) A maximum weight or load set under this section becomes effective on a highway or road when appropriate signs giving notice of the maximum weight or load are erected on the highway or road under order of the board [~~commission~~].

(e) A vehicle operating under a permit issued under Section 623.011, 623.071, 623.094, 623.121, 623.142, 623.181, 623.192, or 623.212 may operate under the conditions authorized by the permit over a road for which the board [~~commission~~] has set a maximum weight under this section.

(f) For the purpose of this section, a farm or ranch road is a state highway that is shown in the records of the board [~~commission~~] to be a farm-to-market or ranch-to-market road.

(g) This section does not apply to a vehicle delivering groceries, farm products, or liquefied petroleum gas.

SECTION 8.2J.05. The heading to Section 621.202, Transportation Code, is amended to read as follows:

Sec. 621.202. BOARD'S [~~COMMISSION'S~~] AUTHORITY TO SET MAXIMUM WIDTH.

SECTION 8.2J.06. Section 621.202(a), Transportation Code, is amended to read as follows:

(a) To comply with safety and operational requirements of federal law, the board [~~commission~~] by order may set the maximum width of a vehicle, including the load on the vehicle, at eight feet for a designated highway or segment of a highway if the results of an engineering and traffic study that includes an analysis of structural capacity of bridges and pavements, traffic volume, unique climatic conditions, and width of traffic lanes support the change.

SECTION 8.2J.07. Section 621.301(b), Transportation Code, is amended to read as follows:

(b) The commissioners court may limit the maximum weights to

be moved on or over a county road, bridge, or culvert by exercising its authority under this subsection in the same manner and under the same conditions provided by Section 621.102 for the board [~~commission~~] to limit maximum weights on highways and roads to which that section applies.

SECTION 8.2J.08. Section 621.352(a), Transportation Code, is amended to read as follows:

(a) The board [~~commission~~] by rule may establish fees for the administration of Section 621.003 in an amount that, when added to the other fees collected by the department, does not exceed the amount sufficient to recover the actual cost to the department of administering that section. An administrative fee collected under this section shall be sent to the comptroller for deposit to the credit of the state highway fund and may be appropriated only to the department for the administration of Section 621.003.

SECTION 8.2J.09. Section 621.356, Transportation Code, is amended to read as follows:

Sec. 621.356. FORM OF PAYMENT. The board [~~commission~~] may adopt rules prescribing the method for payment of a fee for a permit issued by the department that authorizes the operation of a vehicle and its load or a combination of vehicles and load exceeding size or weight limitations. The rules may:

(1) authorize the use of electronic funds transfer or a credit card issued by:

(A) a financial institution chartered by a state or the federal government; or

(B) a nationally recognized credit organization

approved by the board [~~commission~~]; and

(2) require the payment of a discount or service charge for a credit card payment in addition to the fee.

SUBPART K. SPECIAL PROVISIONS AND EXCEPTIONS FOR OVERSIZE OR OVERWEIGHT VEHICLES

SECTION 8.2K.01. Section 622.001, Transportation Code, is amended to read as follows:

Sec. 622.001. DEFINITION. In this chapter, "department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 8.2K.02. Section 622.101(a), Transportation Code, is amended to read as follows:

(a) A single motor vehicle used exclusively to transport chile pepper modules, seed cotton, cotton, cotton burrs, or equipment used to transport or process chile pepper modules or cotton, including a motor vehicle or burr spreader, may not be operated on a highway or road if the vehicle is:

(1) wider than 10 feet and the highway has not been designated by the board [~~commission~~] under Section 621.202;

(2) longer than 48 feet; or

(3) higher than 14 feet 6 inches.

SUBPART L. PERMITS FOR OVERSIZE OR OVERWEIGHT VEHICLES

SECTION 8.2L.01. Section 623.001, Transportation Code, is amended by amending Subdivision (1) and adding Subdivision (4) to read as follows:

(1) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

(4) "Board" means the board of the Texas Department of

Motor Vehicles.

SECTION 8.2L.02. Sections 623.012(a), (b), and (c), Transportation Code, are amended to read as follows:

(a) An applicant for a permit under Section 623.011, other than a permit to operate a vehicle loaded with timber or pulp wood, wood chips, cotton, or agricultural products in their natural state, shall file with the Texas Department of Transportation [~~department~~]:

(1) a blanket bond; or

(2) an irrevocable letter of credit issued by a financial institution the deposits of which are guaranteed by the Federal Deposit Insurance Corporation.

(b) The bond or letter of credit must:

(1) be in the amount of $15,000 payable to the Texas Department of Transportation [~~department~~] and the counties of this state;

(2) be conditioned that the applicant will pay the Texas Department of Transportation [~~department~~] for any damage to a state highway, and a county for any damage to a road or bridge of the county, caused by the operation of the vehicle for which the permit is issued at a heavier weight than the maximum weights authorized by Subchapter B of Chapter 621 or Section 621.301; and

(3) provide that the issuer is to notify the Texas Department of Transportation [~~department~~] and the applicant in writing promptly after a payment is made by the issuer on the bond or letter of credit.

(c) If an issuer of a bond or letter of credit pays under the

bond or letter of credit, the permit holder shall file with the Texas Department of Transportation [~~department~~] before the 31st day after the date on which the payment is made:

(1) a replacement bond or letter of credit in the amount prescribed by Subsection (b) for the original bond or letter of credit; or

(2) a notification from the issuer of the existing bond or letter of credit that the bond or letter of credit has been restored to the amount prescribed by Subsection (b).

SECTION 8.2L.03. Sections 623.016(a) and (b), Transportation Code, are amended to read as follows:

(a) The Texas Department of Transportation [~~department~~] or a county may recover on the bond or letter of credit required for a permit issued under Section 623.011 only by a suit against the permit holder and the issuer of the bond or letter of credit.

(b) Venue for a suit by the Texas Department of Transportation [~~department~~] is in a district court in:

(1) the county in which the defendant resides;

(2) the county in which the defendant has its principal place of business in this state if the defendant is a corporation or partnership; or

(3) Travis County if the defendant is a corporation or partnership that does not have a principal place of business in this state.

SECTION 8.2L.04. Section 623.051, Transportation Code, is amended to read as follows:

Sec. 623.051. CONTRACT ALLOWING OVERSIZE OR OVERWEIGHT

VEHICLE TO CROSS ROAD; SURETY BOND. (a) A person may operate a vehicle that cannot comply with one or more of the restrictions of Subchapter C of Chapter 621 or Section 621.101 to cross the width of any road or highway under the jurisdiction of the Texas Department of Transportation [~~department~~], other than a controlled access highway as defined by Section 203.001, from private property to other private property if the person contracts with the Texas Transportation Commission [~~commission~~] to indemnify the Texas Department of Transportation [~~department~~] for the cost of maintenance and repair of the part of the highway crossed by the vehicle.

(b) The Texas Transportation Commission [~~commission~~] shall adopt rules relating to the forms and procedures to be used under this section and other matters that the commission considers necessary to carry out this section.

(c) To protect the safety of the traveling public, minimize any delays and inconveniences to the operators of vehicles in regular operation, and assure payment for the added wear on the highways in proportion to the reduction of service life, the Texas Transportation Commission [~~commission~~], in adopting rules under this section, shall consider:

(1) the safety and convenience of the general traveling public;

(2) the suitability of the roadway and subgrade on the road or highway to be crossed, variation in soil grade prevalent in the different regions of the state, and the seasonal effects on highway load capacity, the highway shoulder design, and other

highway geometrics; and

(3) the state's investment in its highway system.

(d) Before exercising any right under a contract under this section, a person must execute with a corporate surety authorized to do business in this state a surety bond in an amount determined by the Texas Transportation Commission [~~commission~~] to compensate for the cost of maintenance and repairs as provided by this section. The bond must be approved by the comptroller and the attorney general and must be conditioned on the person fulfilling the obligations of the contract.

SECTION 8.2L.05. Section 623.052(b), Transportation Code, is amended to read as follows:

(b) Before a person may operate a vehicle under this section, the person must:

(1) contract with the Texas Department of Transportation [~~department~~] to indemnify the Texas Department of Transportation [~~department~~] for the cost of the maintenance and repair for damage caused by a vehicle crossing that part of the highway; and

(2) execute an adequate surety bond to compensate for the cost of maintenance and repair, approved by the comptroller and the attorney general, with a corporate surety authorized to do business in this state, conditioned on the person fulfilling each obligation of the agreement.

SECTION 8.2L.06. Section 623.075(a), Transportation Code, is amended to read as follows:

(a) Before the department may issue a permit under this

subchapter, the applicant shall file with the Texas Department of Transportation [~~department~~] a bond in an amount set by the Texas Department of Transportation [~~department~~], payable to the Texas Department of Transportation [~~department~~], and conditioned that the applicant will pay to the Texas Department of Transportation [~~department~~] any damage that might be sustained to the highway because of the operation of the equipment for which a permit is issued.

SECTION 8.2L.07. Sections 623.076(b) and (c), Transportation Code, are amended to read as follows:

(b) The board [~~Texas Transportation Commission~~] may adopt rules for the payment of a fee under Subsection (a). The rules may:

(1) authorize the use of electronic funds transfer;

(2) authorize the use of a credit card issued by:

(A) a financial institution chartered by a state or the United States; or

(B) a nationally recognized credit organization approved by the board [~~Texas Transportation Commission~~]; and

(3) require the payment of a discount or service charge for a credit card payment in addition to the fee prescribed by Subsection (a).

(c) An application for a permit under Section 623.071(c)(3) or (d) must be accompanied by the permit fee established by the board [~~commission~~] for the permit, not to exceed $7,000. Of each fee collected under this subsection, the department shall send:

(1) the first $1,000 to the comptroller for deposit to the credit of the general revenue fund; and

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

SECTION 8.2L.08. Sections 623.145, 623.146, 623.195, 623.196, 623.232, and 623.239, Transportation Code, are amended to read as follows:

Sec. 623.145. RULES; FORMS AND PROCEDURES; FEES. (a) The board [~~Texas Transportation Commission~~] by rule shall provide for the issuance of permits under this subchapter. The rules must include each matter the board [~~commission~~] determines necessary to implement this subchapter and:

(1) requirements for forms and procedures used in applying for a permit;

(2) conditions with regard to route and time of movement;

(3) requirements for flags, flaggers, and warning devices;

(4) the fee for a permit; and

(5) standards to determine whether a permit is to be issued for one trip only or for a period established by the board [~~commission~~].

(b) In adopting a rule or establishing a fee, the board [~~commission~~] shall consider and be guided by:

(1) the state's investment in its highway system;

(2) the safety and convenience of the general traveling public;

(3) the registration or license fee paid on the vehicle for which the permit is requested;

(4) the fees paid by vehicles operating within legal limits;

(5) the suitability of roadways and subgrades on the various classes of highways of the system;

(6) the variation in soil grade prevalent in the different regions of the state;

(7) the seasonal effects on highway load capacity;

(8) the highway shoulder design and other highway geometrics;

(9) the load capacity of the highway bridges;

(10) administrative costs;

(11) added wear on highways; and

(12) compensation for inconvenience and necessary delays to highway users.

Sec. 623.146. VIOLATION OF RULE. A permit under this subchapter is void on the failure of an owner or the owner's representative to comply with a rule of the board [~~commission~~] or with a condition placed on the permit, and immediately on the violation, further movement over the highway of an oversize or overweight vehicle violates the law regulating the size or weight of a vehicle on a public highway.

Sec. 623.195. RULES; FORMS AND PROCEDURES; FEES. (a) The board [~~Texas Transportation Commission~~] by rule shall provide for the issuance of a permit under this subchapter. The rules must include each matter the board [~~commission~~] determines necessary to implement this subchapter and:

(1) requirements for forms and procedures used in

applying for a permit;

(2) conditions with regard to route and time of movement;

(3) requirements for flags, flaggers, and warning devices;

(4) the fee for a permit; and

(5) standards to determine whether a permit is to be issued for one trip only or for a period established by the board [~~commission~~].

(b) In adopting a rule or establishing a fee, the board [~~commission~~] shall consider and be guided by:

(1) the state's investment in its highway system;

(2) the safety and convenience of the general traveling public;

(3) the registration or license fee paid on the vehicle for which the permit is requested;

(4) the fees paid by vehicles operating within legal limits;

(5) the suitability of roadways and subgrades on the various classes of highways of the system;

(6) the variation in soil grade prevalent in the different regions of the state;

(7) the seasonal effects on highway load capacity;

(8) the highway shoulder design and other highway geometrics;

(9) the load capacity of highway bridges;

(10) administrative costs;

(11) added wear on highways; and

(12) compensation for inconvenience and necessary delays to highway users.

Sec. 623.196. VIOLATION OF RULE. A permit under this subchapter is void on the failure of an owner or the owner's representative to comply with a rule of the board [~~commission~~] or with a condition placed on the permit, and immediately on the violation, further movement over a highway of an oversize or overweight vehicle violates the law regulating the size or weight of a vehicle on a public highway.

Sec. 623.232. ISSUANCE OF PERMITS. The board [~~Texas Transportation Commission~~] may authorize the district to issue permits for the movement of oversize or overweight vehicles carrying cargo on state highways located in Victoria County.

Sec. 623.239. RULES. The board [~~Texas Transportation Commission~~] may adopt rules necessary to implement this subchapter.

SECTION 8.2L.09. Section 623.252(a), Transportation Code, is amended to read as follows:

(a) The board [~~Texas Transportation Commission~~] may authorize the county to issue permits for the movement of oversize or overweight vehicles carrying cargo on state highways located in Chambers County.

SECTION 8.2L.10. Section 623.259, Transportation Code, is amended to read as follows:

Sec. 623.259. RULES. The board [~~Texas Transportation Commission~~] may adopt rules necessary to implement this subchapter.

SUBPART M. IDENTIFYING MARKINGS ON CERTAIN COMMERCIAL MOTOR VEHICLES

SECTION 8.2M.01. Section 642.002(d), Transportation Code, is amended to read as follows:

(d) The Texas Department of Motor Vehicles [~~Transportation~~] by rule may prescribe additional requirements regarding the form of the markings required by Subsection (a)(2) that are not inconsistent with that subsection.

SUBPART N. MOTOR CARRIER REGISTRATION

SECTION 8.2N.01. Section 643.001, Transportation Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

(1) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

(1-a) "Board" means the board of the Texas Department of Motor Vehicles.

SUBPART O. SINGLE STATE REGISTRATION

SECTION 8.2O.01. Section 645.001, Transportation Code, is amended to read as follows:

Sec. 645.001. FEDERAL MOTOR CARRIER REGISTRATION. The Texas Department of Motor Vehicles [~~Transportation~~] may, to the fullest extent practicable, participate in a federal motor carrier registration program under the unified carrier registration system as defined by Section 643.001 or a [~~the~~] single state registration system established under federal law [~~49 U.S.C. Section 14504~~].

SUBPART P. MOTOR TRANSPORTATION BROKERS

SECTION 8.2P.01. Section 646.003(a), Transportation Code,

is amended to read as follows:

(a) A person may not act as a motor transportation broker unless the person provides a bond to the Texas Department of Motor Vehicles [~~Transportation~~].

SUBPART Q. FOREIGN COMMERCIAL MOTOR TRANSPORTATION

SECTION 8.2Q.01. Section 648.002, Transportation Code, is amended to read as follows:

Sec. 648.002. RULES. In addition to rules required by this chapter, the Texas Department of Motor Vehicles [~~Transportation~~], the Department of Public Safety, and the Texas Department of Insurance may adopt other rules to carry out this chapter.

SUBPART R. ABANDONED MOTOR VEHICLES

SECTION 8.2R.01. Section 683.001(1), Transportation Code, is amended to read as follows:

(1) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SUBPART S. CONTRACTS FOR ENFORCEMENT OF CERTAIN ARREST WARRANTS

SECTION 8.2S.01. Section 702.001(1), Transportation Code, is amended to read as follows:

(1) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SUBPART T. PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM

SECTION 8.2T.01. Section 707.001(2), Transportation Code, is amended to read as follows:

(2) "Owner of a motor vehicle" means the owner of a motor vehicle as shown on the motor vehicle registration records of the Texas Department of Motor Vehicles [~~Transportation~~] or the

analogous department or agency of another state or country.

SECTION 8.2T.02. Section 707.011(b), Transportation Code, is amended to read as follows:

(b) Not later than the 30th day after the date the violation is alleged to have occurred, the designated department, agency, or office of the local authority or the entity with which the local authority contracts under Section 707.003(a)(1) shall mail the notice of violation to the owner at:

(1) the owner's address as shown on the registration records of the Texas Department of Motor Vehicles [~~Transportation~~]; or

(2) if the vehicle is registered in another state or country, the owner's address as shown on the motor vehicle registration records of the department or agency of the other state or country analogous to the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 8.2T.03. Section 707.017, Transportation Code, is amended to read as follows:

Sec. 707.017. ENFORCEMENT. If the owner of a motor vehicle is delinquent in the payment of a civil penalty imposed under this chapter, the county assessor-collector or the Texas Department of Motor Vehicles [~~Transportation~~] may refuse to register a motor vehicle alleged to have been involved in the violation.

SUBPART U. SALE OR LEASE OF MOTOR VEHICLES

SECTION 8.2U.01. Section 2301.002(9), Occupations Code, is amended to read as follows:

(9) "Department" means the Texas Department of Motor

Vehicles [~~Transportation~~].

SECTION 8.2U.02. Section 2301.005(a), Occupations Code, is amended to read as follows:

(a) A reference in law, including a rule, to the Texas Motor Vehicle Commission or to the board means the board of the Texas Department of Motor Vehicles, in matters concerning the governance of the department of motor vehicles or the policymaking, rulemaking, or adjudicative functions of the department. A reference in law to the board is a reference to the director of the motor vehicles division in matters concerning the administrative functions of the division [~~director, except that a reference to the board means the commission if it is related to the adoption of rules~~].

SECTION 8.2U.03. Sections 2301.606(a), (b), and (c), Occupations Code, are amended to read as follows:

(a) The board [~~director~~] under board rules shall conduct hearings and issue final orders for the implementation and enforcement of this subchapter. [~~An order issued by the director under this subchapter is considered a final order of the board.~~]

(b) In a hearing before the board [~~director~~] under this subchapter, a manufacturer, converter, or distributor may plead and prove as an affirmative defense to a remedy under this subchapter that a nonconformity:

(1) is the result of abuse, neglect, or unauthorized modification or alteration of the motor vehicle; or

(2) does not substantially impair the use or market value of the motor vehicle.

(c) The board [~~director~~] may not issue an order requiring a manufacturer, converter, or distributor to make a refund or to replace a motor vehicle unless:

(1) the owner or a person on behalf of the owner has mailed written notice of the alleged defect or nonconformity to the manufacturer, converter, or distributor; and

(2) the manufacturer, converter, or distributor has been given an opportunity to cure the alleged defect or nonconformity.

SECTION 8.2U.04. Section 2301.002(33), Occupations Code, is repealed.

SUBPART V. SALVAGE VEHICLE DEALERS

SECTION 8.2V.01. Sections 2302.001(2) and (3), Occupations Code, are amended to read as follows:

(2) "Board" [~~"Commission"~~] means the board of the Texas Department of Motor Vehicles [~~Transportation Commission~~].

(3) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 8.2V.02. Section 2302.0015(b), Occupations Code, is amended to read as follows:

(b) For the purpose of enforcing or administering this chapter or Chapter 501 or 502, Transportation Code, a member of the board [~~commission~~], an employee or agent of the board [~~commission~~] or department, a member of the Public Safety Commission, an officer of the Department of Public Safety, or a peace officer may at a reasonable time:

(1) enter the premises of a business regulated under

one of those chapters; and

(2) inspect or copy any document, record, vehicle, part, or other item regulated under one of those chapters.

SECTION 8.2V.03. The heading to Subchapter B, Chapter 2302, Occupations Code, is amended to read as follows:

SUBCHAPTER B. BOARD [~~COMMISSION~~] POWERS AND DUTIES

SECTION 8.2V.04. Sections 2302.051, 2302.052, and 2302.053, Occupations Code, are amended to read as follows:

Sec. 2302.051. RULES AND ENFORCEMENT POWERS. The board [~~commission~~] shall adopt rules as necessary to administer this chapter and may take other action as necessary to enforce this chapter.

Sec. 2302.052. DUTY TO SET FEES. The board [~~commission~~] shall set application fees, license fees, renewal fees, and other fees as required to implement this chapter. The board [~~commission~~] shall set the fees in amounts reasonable and necessary to implement and enforce this chapter.

Sec. 2302.053. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The board [~~commission~~] may not adopt a rule under Section 2302.051 restricting advertising or competitive bidding by a person who holds a license issued under this chapter except to prohibit false, misleading, or deceptive practices by the person.

(b) The board [~~commission~~] may not include in its rules to prohibit false, misleading, or deceptive practices a rule that:

(1) restricts the use of any advertising medium;

(2) restricts the person's personal appearance or use

of the person's voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person; or

(4) restricts the use of a trade name in advertising by the person.

SECTION 8.2V.05. Section 2302.108(b), Occupations Code, is amended to read as follows:

(b) The board [~~commission~~] by rule shall establish the grounds for denial, suspension, revocation, or reinstatement of a license issued under this chapter and the procedures for disciplinary action. A rule adopted under this subsection may not conflict with a rule adopted by the State Office of Administrative Hearings.

SECTION 8.2V.06. Section 2302.204, Occupations Code, is amended to read as follows:

Sec. 2302.204. CASUAL SALES. This chapter does not apply to a person who purchases fewer than three nonrepairable motor vehicles or salvage motor vehicles from a salvage vehicle dealer, an insurance company or salvage pool operator in a casual sale at auction, except that:

(1) the board [~~commission~~] shall adopt rules as necessary to regulate casual sales by salvage vehicle dealers, insurance companies, or salvage pool operators and to enforce this section; and

(2) a salvage vehicle dealer, insurance company, or salvage pool operator who sells a motor vehicle in a casual sale shall comply with those rules and Subchapter E, Chapter 501,

Transportation Code.

PART 3. CONFORMING AMENDMENTS PERTAINING TO TEXAS DEPARTMENT OF TRANSPORTATION IN OTHER CODES

SUBPART A. BUSINESS & COMMERCE CODE

SECTION 8.3A.01. Section 51.003(b), Business & Commerce Code, is amended to read as follows:

(b) In this chapter, "business opportunity" does not include:

(1) the sale or lease of an established and ongoing business or enterprise that has actively conducted business before the sale or lease, whether composed of one or more than one component business or enterprise, if the sale or lease represents an isolated transaction or series of transactions involving a bona fide change of ownership or control of the business or enterprise or liquidation of the business or enterprise;

(2) a sale by a retailer of goods or services under a contract or other agreement to sell the inventory of one or more ongoing leased departments to a purchaser who is granted the right to sell the goods or services within or adjoining a retail business establishment as a department or division of the retail business establishment;

(3) a transaction that is:

(A) regulated by the Texas Department of Licensing and Regulation, the Texas Department of Insurance, the Texas Real Estate Commission, or the director of the Motor Vehicle Division of the Texas Department of Motor Vehicles [~~Transportation~~]; and

(B) engaged in by a person licensed by one of those agencies;

(4) a real estate syndication;

(5) a sale or lease to a business enterprise that also sells or leases products, equipment, or supplies or performs services:

(A) that are not supplied by the seller; and

(B) that the purchaser does not use with the seller's products, equipment, supplies, or services;

(6) the offer or sale of a franchise as described by the Petroleum Marketing Practices Act (15 U.S.C. Section 2801 et seq.) and its subsequent amendments;

(7) the offer or sale of a business opportunity if the seller:

(A) has a net worth of $25 million or more according to the seller's audited balance sheet as of a date not earlier than the 13th month before the date of the transaction; or

(B) is at least 80 percent owned by another person who:

(i) in writing unconditionally guarantees performance by the person offering the business opportunity plan; and

(ii) has a net worth of more than $25 million according to the person's most recent audited balance sheet as of a date not earlier than the 13th month before the date of the transaction; or

(8) an arrangement defined as a franchise by 16 C.F.R.

Section 436.2(a) and its subsequent amendments if:

(A) the franchisor complies in all material respects in this state with 16 C.F.R. Part 436 and each order or other action of the Federal Trade Commission; and

(B) before offering for sale or selling a franchise in this state, a person files with the secretary of state a notice containing:

(i) the name of the franchisor;

(ii) the name under which the franchisor intends to transact business; and

(iii) the franchisor's principal business address.

SECTION 8.3A.02. Section 105.004(b), Business & Commerce Code, is amended to read as follows:

(b) The Texas Department of Motor Vehicles [~~Transportation~~] shall provide a notice that states the provisions of this chapter to each person with a disability who is issued:

(1) license plates under Section 504.201, Transportation Code; or

(2) a disabled parking placard under Section 681.004, Transportation Code.

SUBPART B. CODE OF CRIMINAL PROCEDURE

SECTION 8.3B.01. Section 1(1), Article 42.22, Code of Criminal Procedure, is amended to read as follows:

(1) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 8.3B.02. Article 59.04(c), Code of Criminal

Procedure, is amended to read as follows:

(c) If the property is a motor vehicle, and if there is reasonable cause to believe that the vehicle has been registered under the laws of this state, the attorney representing the state shall ask the Texas Department of Motor Vehicles [~~Transportation~~] to identify from its records the record owner of the vehicle and any interest holder. If the addresses of the owner and interest holder are not otherwise known, the attorney representing the state shall request citation be served on such persons at the address listed with the Texas Department of Motor Vehicles [~~Transportation~~]. If the citation issued to such address is returned unserved, the attorney representing the state shall cause a copy of the notice of the seizure and intended forfeiture to be posted at the courthouse door, to remain there for a period of not less than 30 days. If the owner or interest holder does not answer or appear after the notice has been so posted, the court shall enter a judgment by default as to the owner or interest holder, provided that the attorney representing the state files a written motion supported by affidavit setting forth the attempted service. An owner or interest holder whose interest is forfeited in this manner shall not be liable for court costs. If the person in possession of the vehicle at the time of the seizure is not the owner or the interest holder of the vehicle, notification shall be provided to the possessor in the same manner specified for notification to an owner or interest holder.

SUBPART C. FAMILY CODE

SECTION 8.3C.01. Section 157.316(b), Family Code, is

amended to read as follows:

(b) If a lien established under this subchapter attaches to a motor vehicle, the lien must be perfected in the manner provided by Chapter 501, Transportation Code, and the court or Title IV-D agency that rendered the order of child support shall include in the order a requirement that the obligor surrender to the court or Title IV-D agency evidence of the legal ownership of the motor vehicle against which the lien may attach. A lien against a motor vehicle under this subchapter is not perfected until the obligor's title to the vehicle has been surrendered to the court or Title IV-D agency and the Texas Department of Motor Vehicles [~~Transportation~~] has issued a subsequent title that discloses on its face the fact that the vehicle is subject to a child support lien under this subchapter.

SECTION 8.3C.02. Section 232.0022(a), Family Code, is amended to read as follows:

(a) The Texas Department of Motor Vehicles [~~Transportation~~] is the appropriate licensing authority for suspension or nonrenewal of a motor vehicle registration under this chapter.

SECTION 8.3C.03. Section 232.014(b), Family Code, is amended to read as follows:

(b) A fee collected by the Texas Department of Motor Vehicles [~~Transportation~~] or the Department of Public Safety shall be deposited to the credit of the state highway fund.

SECTION 8.3C.04. Section 264.502(b), Family Code, is amended to read as follows:

(b) The members of the committee who serve under Subsections

(a)(1) through (3) shall select the following additional committee members:

(1) a criminal prosecutor involved in prosecuting crimes against children;

(2) a sheriff;

(3) a justice of the peace;

(4) a medical examiner;

(5) a police chief;

(6) a pediatrician experienced in diagnosing and treating child abuse and neglect;

(7) a child educator;

(8) a child mental health provider;

(9) a public health professional;

(10) a child protective services specialist;

(11) a sudden infant death syndrome family service provider;

(12) a neonatologist;

(13) a child advocate;

(14) a chief juvenile probation officer;

(15) a child abuse prevention specialist;

(16) a representative of the Department of Public Safety; and

(17) a representative of the Texas Department of Motor Vehicles [~~Transportation~~].

SUBPART D. FINANCE CODE

SECTION 8.3D.01. Section 306.001(9), Finance Code, is amended to read as follows:

(9) "Qualified commercial loan":

(A) means:

(i) a commercial loan in which one or more persons as part of the same transaction lends, advances, borrows, or receives, or is obligated to lend or advance or entitled to borrow or receive, money or credit with an aggregate value of:

(a) $3 million or more if the commercial loan is secured by real property; or

(b) $250,000 or more if the commercial loan is not secured by real property and, if the aggregate value of the commercial loan is less than $500,000, the loan documents contain a written certification from the borrower that:

(1) the borrower has been advised by the lender to seek the advice of an attorney and an accountant in connection with the commercial loan; and

(2) the borrower has had the opportunity to seek the advice of an attorney and accountant of the borrower's choice in connection with the commercial loan; and

(ii) a renewal or extension of a commercial loan described by Paragraph (A), regardless of the principal amount of the loan at the time of the renewal or extension; and

(B) does not include a commercial loan made for the purpose of financing a business licensed by the [~~Motor Vehicle Board of the~~] Texas Department of Motor Vehicles [~~Transportation~~] under Section 2301.251(a), Occupations Code.

SECTION 8.3D.02. Section 348.001(10-a), Finance Code, is amended to read as follows:

(10-a) "Towable recreation vehicle" means a nonmotorized vehicle that:

(A) was originally designed and manufactured primarily to provide temporary human habitation in conjunction with recreational, camping, or seasonal use;

(B) is titled and registered with the Texas Department of Motor Vehicles [~~Transportation~~] as a travel trailer through a county tax assessor-collector;

(C) is permanently built on a single chassis;

(D) contains at least one life support system; and

(E) is designed to be towable by a motor vehicle.

SECTION 8.3D.03. Section 348.518, Finance Code, is amended to read as follows:

Sec. 348.518. SHARING OF INFORMATION. To ensure consistent enforcement of law and minimization of regulatory burdens, the commissioner and the Texas Department of Motor Vehicles [~~Transportation~~] may share information, including criminal history information, relating to a person licensed under this chapter. Information otherwise confidential remains confidential after it is shared under this section.

SUBPART E. GOVERNMENT CODE

SECTION 8.3E.01. Section 411.122(d), Government Code, is amended to read as follows:

(d) The following state agencies are subject to this section:

(1) Texas Appraiser Licensing and Certification

Board;

(2) Texas Board of Architectural Examiners;

(3) Texas Board of Chiropractic Examiners;

(4) State Board of Dental Examiners;

(5) Texas Board of Professional Engineers;

(6) Texas Funeral Service Commission;

(7) Texas Board of Professional Geoscientists;

(8) Department of State Health Services, except as provided by Section 411.110, and agencies attached to the department, including:

(A) Texas State Board of Examiners of Dietitians;

(B) Texas State Board of Examiners of Marriage and Family Therapists;

(C) Midwifery Board;

(D) Texas State Perfusionist Advisory Committee [~~Board of Examiners of Perfusionists~~];

(E) Texas State Board of Examiners of Professional Counselors;

(F) Texas State Board of Social Worker Examiners;

(G) State Board of Examiners for Speech-Language Pathology and Audiology;

(H) Advisory Board of Athletic Trainers;

(I) State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments;

(J) Texas Board of Licensure for Professional Medical Physicists; and

(K) Texas Board of Orthotics and Prosthetics;

(9) Texas Board of Professional Land Surveying;

(10) Texas Department of Licensing and Regulation, except as provided by Section 411.093;

(11) Texas Commission on Environmental Quality;

(12) Texas Board of Occupational Therapy Examiners;

(13) Texas Optometry Board;

(14) Texas State Board of Pharmacy;

(15) Texas Board of Physical Therapy Examiners;

(16) Texas State Board of Plumbing Examiners;

(17) Texas State Board of Podiatric Medical Examiners;

(18) Polygraph Examiners Board;

(19) Texas State Board of Examiners of Psychologists;

(20) Texas Real Estate Commission;

(21) Board of Tax Professional Examiners;

(22) Texas Department of Transportation;

(23) State Board of Veterinary Medical Examiners;

(24) Texas Department of Housing and Community Affairs;

(25) secretary of state;

(26) state fire marshal;

(27) Texas Education Agency; [~~and~~]

(28) Department of Agriculture; and

(29) Texas Department of Motor Vehicles.

SUBPART F. HEALTH AND SAFETY CODE

SECTION 8.3F.01. Section 382.209(e), Health and Safety Code, is amended to read as follows:

(e) A vehicle is not eligible to participate in a low-income

vehicle repair assistance, retrofit, and accelerated vehicle retirement program established under this section unless:

(1) the vehicle is capable of being operated;

(2) the registration of the vehicle:

(A) is current; and

(B) reflects that the vehicle has been registered in the county implementing the program for the 12 months preceding the application for participation in the program;

(3) the commissioners court of the county administering the program determines that the vehicle meets the eligibility criteria adopted by the commission, the Texas Department of Motor Vehicles [~~Transportation~~], and the Public Safety Commission;

(4) if the vehicle is to be repaired, the repair is done by a repair facility recognized by the Department of Public Safety, which may be an independent or private entity licensed by the state; and

(5) if the vehicle is to be retired under this subsection and Section 382.213, the replacement vehicle is a qualifying motor vehicle.

SECTION 8.3F.02. Section 382.210(f), Health and Safety Code, is amended to read as follows:

(f) In this section, "total cost" means the total amount of money paid or to be paid for the purchase of a motor vehicle as set forth as "sales price" in the form entitled "Application for Texas Certificate of Title" promulgated by the Texas Department of Motor Vehicles [~~Transportation~~]. In a transaction that does not involve

the use of that form, the term means an amount of money that is equivalent, or substantially equivalent, to the amount that would appear as "sales price" on the Application for Texas Certificate of Title if that form were involved.

SECTION 8.3F.03. Section 461.017(a), Health and Safety Code, is amended to read as follows:

(a) The Drug Demand Reduction Advisory Committee is composed of the following members:

(1) five representatives of the public from different geographic regions of the state who have knowledge and expertise in issues relating to reducing drug demand and who are appointed by the commissioner [~~executive director~~] of the Department of State Health Services [~~Texas Commission on Alcohol and Drug Abuse~~]; and

(2) one representative of each of the following agencies or offices who is appointed by the executive director or commissioner of the agency or office and who is directly involved in the agency's or office's policies, programs, or funding activities relating to reducing drug demand:

(A) the criminal justice division of the governor's office;

(B) the Criminal Justice Policy Council;

(C) the Department of Family and Protective [~~and Regulatory~~] Services;

(D) the Department of Public Safety of the State of Texas;

(E) the Health and Human Services Commission;

(F) the Texas Alcoholic Beverage Commission;

(G) the Department of State Health Services [~~Texas Commission on Alcohol and Drug Abuse~~];

(H) the Texas Council on Offenders with Mental Impairments;

(I) the Texas Department of Criminal Justice;

(J) the [~~Texas Department of~~] Health and[~~,~~

[~~(K) the Texas Department of~~] Human Services Commission;

(K) [~~(L)~~] the [~~Texas~~] Department of Aging and Disability Services [~~Mental Health and Mental Retardation~~];

(L) [~~(M)~~] the Texas Education Agency;

(M) [~~(N)~~] the Texas Juvenile Probation Commission;

(N) [~~(O)~~] the Texas Youth Commission;

(O) [~~(P)~~] the Department of Assistive and Rehabilitative Services [~~Texas Rehabilitation Commission~~];

(P) [~~(Q)~~] the Texas Workforce Commission;

(Q) [~~(R)~~] the Texas Department of Motor Vehicles [~~Transportation~~];

(R) [~~(S)~~] the comptroller of public accounts; and

(S) [~~(T)~~] the adjutant general's department.

SUBPART G. HUMAN RESOURCES CODE

SECTION 8.3G.01. Section 22.041, Human Resources Code, is amended to read as follows:

Sec. 22.041. THIRD-PARTY INFORMATION. Notwithstanding any other provision of this code, the department may use information

obtained from a third party to verify the assets and resources of a person for purposes of determining the person's eligibility and need for medical assistance, financial assistance, or nutritional assistance. Third-party information includes information obtained from:

(1) a consumer reporting agency, as defined by Section 20.01, Business & Commerce Code;

(2) an appraisal district; or

(3) the Texas Department of Motor Vehicles [~~Transportation's~~] vehicle registration record database.

SECTION 8.3G.02. Section 32.026(g), Human Resources Code, is amended to read as follows:

(g) Notwithstanding any other provision of this code, the department may use information obtained from a third party to verify the assets and resources of a person for purposes of determining the person's eligibility and need for medical assistance. Third-party information includes information obtained from:

(1) a consumer reporting agency, as defined by Section 20.01, Business & Commerce Code;

(2) an appraisal district; or

(3) the Texas Department of Motor Vehicles [~~Transportation's~~] vehicle registration record database.

SUBPART H. LOCAL GOVERNMENT CODE

SECTION 8.3H.01. Section 130.006, Local Government Code, is amended to read as follows:

Sec. 130.006. PROCEDURES FOR COLLECTION OF DISHONORED

CHECKS AND INVOICES. A county tax assessor-collector may establish procedures for the collection of dishonored checks and credit card invoices. The procedures may include:

(1) official notification to the maker that the check or invoice has not been honored and that the receipt, registration, certificate, or other instrument issued on the receipt of the check or invoice is not valid until payment of the fee or tax is made;

(2) notification of the sheriff or other law enforcement officers that a check or credit card invoice has not been honored and that the receipt, registration, certificate, or other instrument held by the maker is not valid; and

(3) notification to the Texas Department of Motor Vehicles [~~Transportation~~], the comptroller of public accounts, or the Department of Public Safety that the receipt, registration, certificate, or other instrument held by the maker is not valid.

SECTION 8.3H.02. Section 130.007, Local Government Code, is amended to read as follows:

Sec. 130.007. REMISSION TO STATE NOT REQUIRED; STATE ASSISTANCE IN COLLECTION. (a) If a fee or tax is required to be remitted to the comptroller or the Texas Department of Motor Vehicles [~~Transportation~~] and if payment was made to the county tax assessor-collector by a check that was not honored by the drawee bank or by a credit card invoice that was not honored by the credit card issuer, the amount of the fee or tax is not required to be remitted, but the assessor-collector shall notify the appropriate department of:

(1) the amount of the fee or tax;

(2) the type of fee or tax involved; and

(3) the name and address of the maker.

(b) The Texas Department of Motor Vehicles [~~Transportation~~] and the comptroller shall assist the county tax assessor-collector in collecting the fee or tax and may cancel or revoke any receipt, registration, certificate, or other instrument issued in the name of the state conditioned on the payment of the fee or tax.

SECTION 8.3H.03. Section 130.008, Local Government Code, is amended to read as follows:

Sec. 130.008. LIABILITY OF TAX COLLECTOR FOR VIOLATIONS OF SUBCHAPTER. If the comptroller or the Texas Department of Motor Vehicles [~~Transportation~~] determines that the county tax assessor-collector has accepted payment for fees and taxes to be remitted to that department in violation of Section 130.004 or that more than two percent of the fees and taxes to be received from the assessor-collector are not remitted because of the acceptance of checks that are not honored by the drawee bank or of credit card invoices that are not honored by the credit card issuer, the department may notify the assessor-collector that the assessor-collector may not accept a check or credit card invoice for the payment of any fee or tax to be remitted to that department. A county tax assessor-collector who accepts a check or credit card invoice for the payment of a fee or tax, after notice that the assessor-collector may not receive a check or credit card invoice for the payment of fees or taxes to be remitted to a department, is liable to the state for the amount of the check or credit card invoice accepted.

SECTION 8.3H.04. Section 130.009, Local Government Code, is amended to read as follows:

Sec. 130.009. STATE RULES. The comptroller and the Texas Department of Motor Vehicles [~~Transportation~~] may make rules concerning the acceptance of checks or credit card invoices by a county tax assessor-collector and for the collection of dishonored checks or credit card invoices.

SUBPART I. OCCUPATIONS CODE

SECTION 8.3I.01. Section 554.009(c), Occupations Code, is amended to read as follows:

(c) The board may register a vehicle with the Texas Department of Motor Vehicles [~~Transportation~~] in an alias name only for investigative personnel.

SUBPART J. PENAL CODE

SECTION 8.3J.01. Section 31.03(c), Penal Code, is amended to read as follows:

(c) For purposes of Subsection (b):

(1) evidence that the actor has previously participated in recent transactions other than, but similar to, that which the prosecution is based is admissible for the purpose of showing knowledge or intent and the issues of knowledge or intent are raised by the actor's plea of not guilty;

(2) the testimony of an accomplice shall be corroborated by proof that tends to connect the actor to the crime, but the actor's knowledge or intent may be established by the uncorroborated testimony of the accomplice;

(3) an actor engaged in the business of buying and

selling used or secondhand personal property, or lending money on the security of personal property deposited with the actor, is presumed to know upon receipt by the actor of stolen property (other than a motor vehicle subject to Chapter 501, Transportation Code) that the property has been previously stolen from another if the actor pays for or loans against the property $25 or more (or consideration of equivalent value) and the actor knowingly or recklessly:

(A) fails to record the name, address, and physical description or identification number of the seller or pledgor;

(B) fails to record a complete description of the property, including the serial number, if reasonably available, or other identifying characteristics; or

(C) fails to obtain a signed warranty from the seller or pledgor that the seller or pledgor has the right to possess the property. It is the express intent of this provision that the presumption arises unless the actor complies with each of the numbered requirements;

(4) for the purposes of Subdivision (3)(A), "identification number" means driver's license number, military identification number, identification certificate, or other official number capable of identifying an individual;

(5) stolen property does not lose its character as stolen when recovered by any law enforcement agency;

(6) an actor engaged in the business of obtaining abandoned or wrecked motor vehicles or parts of an abandoned or

wrecked motor vehicle for resale, disposal, scrap, repair, rebuilding, demolition, or other form of salvage is presumed to know on receipt by the actor of stolen property that the property has been previously stolen from another if the actor knowingly or recklessly:

(A) fails to maintain an accurate and legible inventory of each motor vehicle component part purchased by or delivered to the actor, including the date of purchase or delivery, the name, age, address, sex, and driver's license number of the seller or person making the delivery, the license plate number of the motor vehicle in which the part was delivered, a complete description of the part, and the vehicle identification number of the motor vehicle from which the part was removed, or in lieu of maintaining an inventory, fails to record the name and certificate of inventory number of the person who dismantled the motor vehicle from which the part was obtained;

(B) fails on receipt of a motor vehicle to obtain a certificate of authority, sales receipt, or transfer document as required by Chapter 683, Transportation Code, or a certificate of title showing that the motor vehicle is not subject to a lien or that all recorded liens on the motor vehicle have been released; or

(C) fails on receipt of a motor vehicle to immediately remove an unexpired license plate from the motor vehicle, to keep the plate in a secure and locked place, or to maintain an inventory, on forms provided by the Texas Department of Motor Vehicles [~~Transportation~~], of license plates kept under this paragraph, including for each plate or set of plates the license

plate number and the make, motor number, and vehicle identification number of the motor vehicle from which the plate was removed;

(7) an actor who purchases or receives a used or secondhand motor vehicle is presumed to know on receipt by the actor of the motor vehicle that the motor vehicle has been previously stolen from another if the actor knowingly or recklessly:

(A) fails to report to the Texas Department of Motor Vehicles [~~Transportation~~] the failure of the person who sold or delivered the motor vehicle to the actor to deliver to the actor a properly executed certificate of title to the motor vehicle at the time the motor vehicle was delivered; or

(B) fails to file with the county tax assessor-collector of the county in which the actor received the motor vehicle, not later than the 20th day after the date the actor received the motor vehicle, the registration license receipt and certificate of title or evidence of title delivered to the actor in accordance with Subchapter D, Chapter 520, Transportation Code, at the time the motor vehicle was delivered;

(8) an actor who purchases or receives from any source other than a licensed retailer or distributor of pesticides a restricted-use pesticide or a state-limited-use pesticide or a compound, mixture, or preparation containing a restricted-use or state-limited-use pesticide is presumed to know on receipt by the actor of the pesticide or compound, mixture, or preparation that the pesticide or compound, mixture, or preparation has been previously stolen from another if the actor:

(A) fails to record the name, address, and

physical description of the seller or pledgor;

(B) fails to record a complete description of the amount and type of pesticide or compound, mixture, or preparation purchased or received; and

(C) fails to obtain a signed warranty from the seller or pledgor that the seller or pledgor has the right to possess the property; and

(9) an actor who is subject to Section 409, Packers and Stockyards Act (7 U.S.C. Section 228b), that obtains livestock from a commission merchant by representing that the actor will make prompt payment is presumed to have induced the commission merchant's consent by deception if the actor fails to make full payment in accordance with Section 409, Packers and Stockyards Act (7 U.S.C. Section 228b).

SECTION 8.3J.02. Section 31.11(b), Penal Code, is amended to read as follows:

(b) It is an affirmative defense to prosecution under this section that the person was:

(1) the owner or acting with the effective consent of the owner of the property involved;

(2) a peace officer acting in the actual discharge of official duties; or

(3) acting with respect to a number assigned to a vehicle by the Texas Department of Transportation or the Texas Department of Motor Vehicles, as applicable, and the person was:

(A) in the actual discharge of official duties as an employee or agent of the department; or

(B) in full compliance with the rules of the department as an applicant for an assigned number approved by the department.

SUBPART K. TAX CODE

SECTION 8.3K.01. Section 21.02(d), Tax Code, is amended to read as follows:

(d) A motor vehicle does not have taxable situs in a taxing unit under Subsection (a)(1) if, on January 1, the vehicle:

(1) has been located for less than 60 days at a place of business of a person who holds a wholesale motor vehicle auction general distinguishing number issued by the Texas Department of Motor Vehicles [~~Transportation~~] under Chapter 503, Transportation Code, for that place of business; and

(2) is offered for resale.

SECTION 8.3K.02. Section 22.04(d), Tax Code, is amended to read as follows:

(d) This section does not apply to a motor vehicle that on January 1 is located at a place of business of a person who holds a wholesale motor vehicle auction general distinguishing number issued by the Texas Department of Motor Vehicles [~~Transportation~~] under Chapter 503, Transportation Code, for that place of business, and that:

(1) has not acquired taxable situs under Section 21.02(a)(1) in a taxing unit that participates in the appraisal district because the vehicle is described by Section 21.02(d);

(2) is offered for sale by a dealer who holds a dealer's general distinguishing number issued by the Texas

Department of Motor Vehicles [~~Transportation~~] under Chapter 503, Transportation Code, and whose inventory of motor vehicles is subject to taxation in the manner provided by Sections 23.121 and 23.122; or

(3) is collateral possessed by a lienholder and offered for sale in foreclosure of a security interest.

SECTION 8.3K.03. Sections 23.121(a)(3), (11), and (14), Tax Code, are amended to read as follows:

(3) "Dealer" means a person who holds a dealer's general distinguishing number issued by the Texas Department of Motor Vehicles [~~Transportation~~] under the authority of Chapter 503, Transportation Code, or who is legally recognized as a motor vehicle dealer pursuant to the law of another state and who complies with the terms of Section 152.063(f). The term does not include:

(A) a person who holds a manufacturer's license issued under Chapter 2301, Occupations Code [~~by the Motor Vehicle Board of the Texas Department of Transportation~~];

(B) an entity that is owned or controlled by a person who holds a manufacturer's license issued under Chapter 2301, Occupations Code [~~by the Motor Vehicle Board of the Texas Department of Transportation~~]; or

(C) a dealer whose general distinguishing number issued by the Texas Department of Motor Vehicles [~~Transportation~~] under the authority of Chapter 503, Transportation Code, prohibits the dealer from selling a vehicle to any person except a dealer.

(11) "Sales price" means the total amount of money paid or to be paid for the purchase of a motor vehicle as set forth

as "sales price" in the form entitled "Application for Texas Certificate of Title" promulgated by the Texas Department of Motor Vehicles [~~Transportation~~]. In a transaction that does not involve the use of that form, the term means an amount of money that is equivalent, or substantially equivalent, to the amount that would appear as "sales price" on the Application for Texas Certificate of Title if that form were involved.

(14) "Towable recreational vehicle" means a nonmotorized vehicle that is designed for temporary human habitation for recreational, camping, or seasonal use and:

(A) is titled and registered with the Texas Department of Motor Vehicles [~~Transportation~~] through the office of the collector;

(B) is permanently built on a single chassis;

(C) contains one or more life support systems; and

(D) is designed to be towable by a motor vehicle.

SECTION 8.3K.04. Sections 23.121(f), (g), and (h), Tax Code, are amended to read as follows:

(f) The comptroller shall promulgate a form entitled Dealer's Motor Vehicle Inventory Declaration. Except as provided by Section 23.122(l) [~~of this code~~], not later than February 1 of each year, or, in the case of a dealer who was not in business on January 1, not later than 30 days after commencement of business, each dealer shall file a declaration with the chief appraiser and file a copy with the collector. For purposes of this subsection, a dealer is presumed to have commenced business on the date of

issuance to the dealer of a dealer's general distinguishing number as provided by Chapter 503, Transportation Code. Notwithstanding the presumption created by this subsection, a chief appraiser may, at his or her sole discretion, designate as the date on which a dealer commenced business a date other than the date of issuance to the dealer of a dealer's general distinguishing number. The declaration is sufficient to comply with this subsection if it sets forth the following information:

(1) the name and business address of each location at which the dealer owner conducts business;

(2) each of the dealer's general distinguishing numbers issued by the Texas Department of Motor Vehicles [~~Transportation~~];

(3) a statement that the dealer owner is the owner of a dealer's motor vehicle inventory; and

(4) the market value of the dealer's motor vehicle inventory for the current tax year as computed under Section 23.121(b) [~~of this code~~].

(g) Under the terms provided by this subsection, the chief appraiser may examine the books and records of the holder of a general distinguishing number issued by the Texas Department of Motor Vehicles [~~Transportation~~]. A request made under this subsection must be made in writing, delivered personally to the custodian of the records, at the location for which the general distinguishing number has been issued, must provide a period not less than 15 days for the person to respond to the request, and must state that the person to whom it is addressed has the right to seek

judicial relief from compliance with the request. In a request made under this section the chief appraiser may examine:

(1) the document issued by the Texas Department of Motor Vehicles [~~Transportation~~] showing the person's general distinguishing number;

(2) documentation appropriate to allow the chief appraiser to ascertain the applicability of this section and Section 23.122 [~~of this code~~] to the person;

(3) sales records to substantiate information set forth in the dealer's declaration filed by the person.

(h) If a dealer fails to file a declaration as required by this section, or if, on the declaration required by this section, a dealer reports the sale of fewer than five motor vehicles in the prior year, the chief appraiser shall report that fact to the Texas Department of Motor Vehicles [~~Transportation~~] and the department shall initiate termination proceedings. The chief appraiser shall include with the report a copy of a declaration, if any, indicating the sale by a dealer of fewer than five motor vehicles in the prior year. A report by a chief appraiser to the Texas Department of Motor Vehicles [~~Transportation~~] as provided by this subsection is prima facie grounds for the cancellation of the dealer's general distinguishing number under Section 503.038(a)(9), Transportation Code, or for refusal by the Texas Department of Motor Vehicles [~~Transportation~~] to renew the dealer's general distinguishing number.

SECTION 8.3K.05. Section 23.123(c), Tax Code, is amended to read as follows:

(c) Information made confidential by this section may be disclosed:

(1) in a judicial or administrative proceeding pursuant to a lawful subpoena;

(2) to the person who filed the declaration or statement or to that person's representative authorized by the person in writing to receive the information;

(3) to the comptroller or an employee of the comptroller authorized by the comptroller to receive the information;

(4) to a collector or chief appraiser;

(5) to a district attorney, criminal district attorney or county attorney involved in the enforcement of a penalty imposed pursuant to Section 23.121 or Section 23.122 [~~of this code~~];

(6) for statistical purposes if in a form that does not identify specific property or a specific property owner;

(7) if and to the extent that the information is required for inclusion in a public document or record that the appraisal or collection office is required by law to prepare or maintain; or

(8) to the Texas Department of Motor Vehicles [~~Transportation~~] for use by that department in auditing compliance of its licensees with appropriate provisions of applicable law.

SECTION 8.3K.06. Section 23.124(a)(11), Tax Code, is amended to read as follows:

(11) "Sales price" means the total amount of money paid or to be paid for the purchase of:

(A) a vessel, other than a trailer that is treated as a vessel, as set forth as "sales price" in the form entitled "Application for Texas Certificate of Number/Title for Boat/Seller, Donor or Trader's Affidavit" promulgated by the Parks and Wildlife Department;

(B) an outboard motor as set forth as "sales price" in the form entitled "Application for Texas Certificate of Title for an Outboard Motor/Seller, Donor or Trader's Affidavit" promulgated by the Parks and Wildlife Department; or

(C) a trailer that is treated as a vessel as set forth as "sales price" in the form entitled "Application for Texas Certificate of Title" promulgated by the Texas Department of Motor Vehicles [~~Transportation~~].

In a transaction involving a vessel, an outboard motor, or a trailer that is treated as a vessel that does not involve the use of one of these forms, the term means an amount of money that is equivalent, or substantially equivalent, to the amount that would appear as "sales price" on the Application for Texas Certificate of Number/Title for Boat/Seller, Donor or Trader's Affidavit, the Application for Texas Certificate of Title for an Outboard Motor/Seller, Donor or Trader's Affidavit, or the Application for Texas Certificate of Title if one of these forms were involved.

SECTION 8.3K.07. Section 113.011, Tax Code, is amended to read as follows:

Sec. 113.011. LIENS FILED WITH TEXAS DEPARTMENT OF MOTOR VEHICLES [~~TRANSPORTATION~~]. The comptroller shall furnish to the Texas Department of Motor Vehicles [~~Transportation~~] each release of

a tax lien filed by the comptroller with that department.

SECTION 8.3K.08. Sections 152.0412(a) and (f), Tax Code, are amended to read as follows:

(a) In this section, "standard presumptive value" means the private-party transaction value of a motor vehicle, as determined by the Texas Department of Motor Vehicles [~~Transportation~~] based on an appropriate regional guidebook of a nationally recognized motor vehicle value guide service, or based on another motor vehicle guide publication that the department determines is appropriate if a private-party transaction value for the motor vehicle is not available from a regional guidebook described by this subsection.

(f) The Texas Department of Motor Vehicles [~~Transportation~~] shall maintain information on the standard presumptive values of motor vehicles as part of the department's registration and title system. The department shall update the information at least quarterly each calendar year and publish, electronically or otherwise, the updated information.

SECTION 8.3K.09. Section 152.042, Tax Code, is amended to read as follows:

Sec. 152.042. COLLECTION OF TAX ON METAL DEALER PLATES. A person required to pay the tax imposed by Section 152.027 shall pay the tax to the Texas Department of Motor Vehicles [~~Transportation~~], and the department may not issue the metal dealer's plates until the tax is paid.

SECTION 8.3K.10. Section 152.121(b), Tax Code, is amended to read as follows:

(b) Taxes on metal dealer plates collected by the Texas

Department of Motor Vehicles [~~Transportation~~] shall be deposited by the department in the state treasury in the same manner as are other taxes collected under this chapter.

SECTION 8.3K.11. Section 162.001(52), Tax Code, is amended to read as follows:

(52) "Registered gross weight" means the total weight of the vehicle and carrying capacity shown on the registration certificate issued by the Texas Department of Motor Vehicles [~~Transportation~~].

PART 4. TRANSFERS OF CERTAIN POWERS, DUTIES, OBLIGATIONS, AND RIGHTS OF ACTION

SECTION 8.4.01. (a) All powers, duties, obligations, and rights of action of the Motor Carrier Division, the Motor Vehicle Division, and the Vehicle Titles and Registration Division of the Texas Department of Transportation are transferred to the Texas Department of Motor Vehicles, and all powers, duties, obligations, and rights of action of the Texas Transportation Commission in connection or associated with those divisions of the Texas Department of Transportation are transferred to the board of the Texas Department of Motor Vehicles on December 1, 2009.

(b) In connection with the transfers required by Subsection (a) of this section, the personnel, furniture, computers, other property and equipment, files, and related materials used by the Motor Carrier Division, the Motor Vehicle Division, and the Vehicle Titles and Registration Division of the Texas Department of Transportation are transferred to the Texas Department of Motor Vehicles.

(c) The Texas Department of Motor Vehicles shall continue any proceeding involving the Motor Carrier Division, the Motor Vehicle Division, or the Vehicle Titles and Registration Division of the Texas Department of Transportation that was brought before the effective date of this Act in accordance with the law in effect on the date the proceeding was brought, and the former law is continued in effect for that purpose.

(d) A certificate, license, document, permit, registration, or other authorization issued by the Motor Carrier Division, the Motor Vehicle Division, or the Vehicle Titles and Registration Division of the Texas Department of Transportation that is in effect on the effective date of this Act remains valid for the period for which it was issued unless suspended or revoked by the Texas Department of Motor Vehicles.

(e) A rule adopted by the Texas Transportation Commission or the director of the Texas Department of Transportation in connection with or relating to the Motor Carrier Division, the Motor Vehicle Division, or the Vehicle Titles and Registration Division of that department continues in effect until it is amended or repealed by the board of the Texas Department of Motor Vehicles.

(f) The unobligated and unexpended balance of any appropriations made to the Texas Department of Transportation in connection with or relating to the Motor Carrier Division, the Motor Vehicle Division, and the Vehicle Titles and Registration Division of that department for the state fiscal biennium ending August 31, 2009, is transferred and reappropriated to the Texas Department of Motor Vehicles for the purpose of implementing the

powers, duties, obligations, and rights of action transferred to that department under Subsection (a) of this section.

SECTION 8.4.02. The Transportation Legislative Oversight Committee shall oversee the coordination and collaboration between the Texas Department of Transportation and the Texas Department of Motor Vehicles during the transitions required by Section 8.4.01 of this article.

PART 5. APPOINTMENT OF BOARD

SECTION 8.5.01. Not later than December 1, 2009, the governor shall appoint the members of the board of the Texas Department of Motor Vehicles in accordance with Subchapter B, Chapter 1001, Transportation Code, as added by this article.

ARTICLE 9. RAIL TRANSPORTATION DIVISION

SECTION 9.01. Section 91.001, Transportation Code, is amended by adding Subdivision (3-a) to read as follows:

(3-a) "Division" means the rail transportation division of the department.

SECTION 9.02. Subchapter A, Chapter 91, Transportation Code, is amended by adding Section 91.0041 to read as follows:

Sec. 91.0041. DUTIES OF RAIL TRANSPORTATION DIVISION. In addition to any other duty imposed on the division, the division shall:

(1) assure that rail transportation is an integral part of the department's transportation planning process;

(2) coordinate and oversee rail projects that are financed with money distributed by the department, including money from the Texas rail relocation and improvement fund;

(3) develop and plan for improved passenger and freight rail facilities and services in this state; and

(4) coordinate the efforts of the department, the federal government, political subdivisions, and private entities to continue the development of rail transportation facilities and services in this state.

SECTION 9.03. Subtitle I, Title 5, Transportation Code, is amended by adding Chapter 175 to read as follows:

CHAPTER 175. BORDER REGION HIGHER-SPEED RAIL AUTHORITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 175.001. DEFINITIONS. In this chapter:

(1) "Authority" means a border region higher-speed rail authority created under this chapter.

(2) "Authority property" means all property an authority owns or leases under a long-term lease.

(3) "Board" means an authority's board of directors.

(4) "Border region" means the Texas-Louisiana border region or the Texas-Mexico border region, as defined by Section 2056.002, Government Code.

(5) "Commission" means the Texas Transportation Commission.

(6) "Department" means the Texas Department of Transportation.

(7) "Director" means a board member.

(8) "Higher-speed rail" means the rail technology that permits the operation of rolling stock between scheduled stops at speeds greater than 70 miles per hour but less than 110 miles per

hour.

(9) "Higher-speed rail facility" means any property necessary for the transportation of passengers and baggage between points in a border region by higher-speed rail. The term includes rolling stock, locomotives, stations, parking areas, and rail lines.

(10) "System" means all of the higher-speed rail and intermodal facilities leased or owned by or operated on behalf of an authority.

[Sections 175.002-175.050 reserved for expansion]

SUBCHAPTER B. CREATION

Sec. 175.051. CREATION OF AUTHORITIES. The commission by order may authorize the creation of an authority in each border region for the purposes of financing, acquiring property for, constructing, maintaining, operating, and improving a higher-speed rail system in each border region.

[Sections 175.052-175.100 reserved for expansion]

SUBCHAPTER C. GOVERNANCE

Sec. 175.101. COMPOSITION OF BOARDS. (a) The governing body of an authority in the Texas-Louisiana border region is a board of seven directors consisting of:

(1) the county judges of the five most populous counties in the region; and

(2) two directors selected by the county judges to represent the remaining counties in the region.

(b) The governing body of an authority in the Texas-Mexico border region is a board of 11 directors consisting of:

(1) the county judges of the seven most populous counties in the region; and

(2) four directors selected by the county judges to represent the remaining counties in the region.

Sec. 175.102. PRESIDING OFFICER. (a) The directors shall elect one director as presiding officer.

(b) The presiding officer may select another director to preside in the absence of the presiding officer.

Sec. 175.103. MEETINGS. The presiding officer shall call at least one meeting of the board each year and may call other meetings as the presiding officer determines are appropriate.

Sec. 175.104. COMPENSATION; REIMBURSEMENT. A director is not entitled to compensation for serving as a director but is entitled to reimbursement for reasonable expenses incurred while serving as a director.

Sec. 175.105. RULES FOR PROCEEDINGS. The board shall adopt rules for its proceedings and appoint an executive committee.

Sec. 175.106. EMPLOYEES. The board may employ and compensate persons to carry out the powers and duties of the authority.

Sec. 175.107. CONFLICTS OF INTEREST. Chapter 171, Local Government Code, applies to a director.

[Sections 175.108-175.150 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES OF AUTHORITY

Sec. 175.151. NATURE OF AUTHORITY. (a) An authority is a public body and a political subdivision of the state exercising public and essential governmental functions.

(b) An authority, in the exercise of powers under this chapter, is performing only governmental functions and is a governmental unit within the meaning of Chapter 101, Civil Practice and Remedies Code.

Sec. 175.152. GENERAL POWERS OF AUTHORITY. An authority has all the powers necessary or convenient to carry out the purposes of this chapter.

Sec. 175.153. SUNSET REVIEW. An authority is subject every 12th year to review under Chapter 325, Government Code (Texas Sunset Act).

Sec. 175.154. SUITS. (a) An authority may:

(1) sue and be sued;

(2) institute and prosecute suits without giving security for costs; and

(3) appeal from a judgment without giving a supersedeas or cost bond.

(b) An action at law or in equity against an authority must be brought in the county in which a principal office of the authority is located, except that in an eminent domain proceeding involving an interest in land, suit must be brought in the county in which the land is located.

Sec. 175.155. POWERS RELATED TO DISTRICT PROPERTY. An authority may acquire by grant, purchase, gift, devise, lease, or otherwise and may hold, use, sell, lease, or dispose of real and personal property, licenses, patents, rights, and interests necessary, convenient, or useful for the full exercise of its powers.

Sec. 175.156. GENERAL AUTHORITY OVER HIGHER-SPEED RAIL FACILITIES. An authority may acquire, construct, develop, own, operate, maintain, and improve intermodal and higher-speed rail facilities to connect political subdivisions in the applicable border region.

Sec. 175.157. USE AND ALTERATION OF PROPERTY OF ANOTHER POLITICAL SUBDIVISION. (a) For a purpose described by Section 175.156, as necessary or useful in the construction, reconstruction, repair, maintenance, operation, and improvement of the system, and with the consent of a municipality, county, or other political subdivision, an authority may:

(1) use streets, alleys, roads, highways, and other public ways of the municipality, county, or other political subdivision; and

(2) relocate, raise, reroute, change the grade of, or alter, at the authority's expense, the construction of any publicly owned or privately owned street, alley, highway, road, railroad, electric line or facility, telegraph or telephone property and facility, pipeline or facility, conduit or facility, and other property.

(b) An authority may not use or alter:

(1) a road or highway that is part of the state highway system without the permission of the commission; or

(2) a railroad without permission of the railroad.

Sec. 175.158. ACQUISITION OF PROPERTY. (a) An authority may purchase any interest in real property to acquire, construct, operate, or improve a higher-speed rail facility on terms and at a

price to which the authority and the owner agree.

(b) The governing body of a municipality, a county, any other political subdivision, or a public agency may convey the title or the rights and easements to any property needed by an authority for its purposes in connection with the acquisition, construction, operation, or improvement of the system.

Sec. 175.159. EMINENT DOMAIN. (a) An authority may exercise the power of eminent domain to acquire:

(1) real property in fee simple; or

(2) an interest in real property less than fee simple in, on, under, or above land, including an easement, right-of-way, or right of use of airspace or subsurface space.

(b) The power of eminent domain under this section does not apply to:

(1) land under the jurisdiction of the department; or

(2) a rail line owned by a common carrier or municipality.

(c) To the extent possible, an authority shall use existing rail or intermodal transportation corridors for the alignment of its system.

(d) An eminent domain proceeding is begun by the board's adoption of a resolution declaring that the authority's acquisition of the property or interest described in the resolution:

(1) is a public necessity; and

(2) is necessary and proper for the construction, extension, improvement, or development of higher-speed rail facilities and is in the public interest.

(e) The resolution is conclusive evidence of the public necessity of the proposed acquisition and that the real property or interest in property is necessary for public use.

(f) With the consent of the property owner, instead of paying for real property with a single fixed payment, an authority may pay the owner in the form of:

(1) an intangible legal right to receive a percentage of identified fees related to the applicable segment of the system; or

(2) an exclusive or nonexclusive right to use or operate a part of the system.

Sec. 175.160. AGREEMENTS WITH OTHER ENTITIES FOR JOINT USE. An authority may:

(1) make agreements with a public utility, private utility, communication system, common carrier, state agency, or transportation system for the joint use of facilities, installations, or properties inside or outside the border region; and

(2) establish through routes and joint fares.

Sec. 175.161. RULES. To protect the health, safety, and general welfare of residents of the border region and people who use the authority's services, an authority may adopt rules to govern the operation of the authority, its employees, the system, service provided by the authority, and any other necessary matter concerning its purposes, including rules relating to health, safety, alcohol or beverage service, food service, and telephone and utility services.

Sec. 175.162. JOINT OWNERSHIP AGREEMENTS. An authority may enter into a joint ownership agreement with any person.

Sec. 175.163. COMPENSATION FOR USE OF SYSTEM FACILITIES. (a) An authority shall establish and maintain reasonable and nondiscriminatory rates or other compensation for the use of the facilities of the system acquired, constructed, operated, regulated, or maintained by the authority.

(b) Together with grants received by the authority, the rates or other compensation must be sufficient to produce revenues adequate to:

(1) pay all expenses necessary for the operation and maintenance of the properties and facilities of the authority;

(2) pay the interest on and principal of bonds issued by the authority and payable in whole or in part from the revenues, as they become due and payable; and

(3) comply with the terms of an agreement made with the holders of bonds or with any person in their behalf.

Sec. 175.164. AGREEMENTS GENERALLY. An authority may make contracts, leases, and agreements with, and accept grants and loans from, the United States, this state, agencies and political subdivisions of this state or another state of the United States, the United Mexican States, or a state of the United Mexican States, and other persons and entities and may perform any act necessary for the full exercise of the powers vested in it.

Sec. 175.165. INTERLOCAL AGREEMENTS WITH COMMISSION. The commission may enter into an interlocal agreement with an authority under which the authority may exercise a power or duty of the

commission for the development and efficient operation of an intermodal corridor in the applicable border region.

Sec. 175.166. ACQUISITION OF ROLLING STOCK AND OTHER PROPERTY. An authority may acquire rolling stock or other property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement.

Sec. 175.167. LIMIT ON POWER. A revenue bond indenture may limit the exercise of the powers granted by this subchapter, and a limit applies as long as the revenue bonds issued under the indenture are outstanding and unpaid.

Sec. 175.168. RULES GOVERNING SYSTEM AND ROUTINGS. An authority by resolution may adopt rules governing the use, operation, and maintenance of the system and may determine all routings and change them as the board considers advisable.

Sec. 175.169. OPERATION OR USE CONTRACTS. (a) An authority may:

(1) lease all or part of the higher-speed rail facilities to an operator; or

(2) contract for the use or operation of all or part of the higher-speed rail facilities by an operator.

(b) To the maximum extent practicable, an authority shall encourage the participation of private enterprise in the operation of higher-speed rail facilities.

(c) The term of an operating contract under this section may not exceed 20 years.

Sec. 175.170. RAIL TRANSPORTATION SERVICES AGREEMENTS WITH OTHER POLITICAL SUBDIVISIONS. An authority may contract with a

county or other political subdivision of this state for the authority to provide higher-speed rail transportation services to an area outside the border region on the terms and conditions to which the parties agree.

[Sections 175.171-175.200 reserved for expansion]

SUBCHAPTER E. FINANCIAL PROVISIONS

Sec. 175.201. PURCHASE OF ADDITIONAL INSURED PROVISIONS. An authority may purchase an additional insured provision to any liability insurance contract.

Sec. 175.202. FISCAL YEAR. Unless the board changes the fiscal year, the fiscal year of an authority ends September 30.

Sec. 175.203. ANNUAL BUDGET. (a) Before beginning the operation of higher-speed rail facilities, the board shall adopt an annual operating budget specifying the authority's anticipated revenues and expenses for the remainder of the fiscal year. The board shall adopt an operating budget for each succeeding fiscal year.

(b) The board shall hold a public hearing before adopting a budget other than the initial budget. Notice of each hearing must be published at least seven days before the date of the hearing in a newspaper of general circulation in each county in the applicable border region.

(c) A budget may be amended at any time if notice of the proposed amendment is given in the notice of the meeting.

(d) An expenditure that is not budgeted may not be made.

Sec. 175.204. RETIREMENT BENEFITS. An authority is eligible to participate in the Texas County and District Retirement

System.

Sec. 175.205. DEPOSITORY. (a) The board by resolution shall name one or more banks for the deposit of authority funds.

(b) Authority funds are public funds and may be invested in securities permitted by Chapter 2256, Government Code.

(c) To the extent funds of an authority are not insured by the Federal Deposit Insurance Corporation or its successor, they shall be collateralized in the manner provided for county funds.

Sec. 175.206. AGREEMENTS RELATED TO FOREIGN AND DOMESTIC CURRENCY. (a) To provide tax benefits to another party that are available with respect to property under the laws of a foreign country or to encourage private investment with a transportation authority in the United States, and notwithstanding any other provision of this chapter, an authority may enter into and execute, as it considers appropriate, contracts, agreements, notes, security agreements, conveyances, bills of sale, deeds, leases as lessee or lessor, and currency hedges, swap transactions, or agreements relating to foreign and domestic currency.

(b) The agreements or instruments may have the terms, maturities, duration, provisions as to governing law, indemnities, and other provisions that are approved by the board.

(c) In connection with any transaction authorized by this section, the authority shall deposit in trust, escrow, or similar arrangement cash or lawful investments or securities, or shall enter into one or more payment agreements, financial guarantees, or insurance contracts that, by their terms, including interest to be earned on any cash or securities, are sufficient in amount to pay

when due all amounts required to be paid by the authority as rent over the full term of the transaction plus any optional purchase price due under the transaction. A counterparty to a payment agreement, financial guarantee, or insurance contract under this subsection must have either a corporate credit or debt rating in any form, a claims-paying ability, or a rating for financial strength of "AA" or better by Moody's Investors Service, Inc., or by Standard & Poor's Corporation or "A-" or better by BEST's rating system.

(d) A certification in advance by an independent financial expert, banker, or certified public accountant, who is not an employee of the authority, certifying compliance with this requirement constitutes conclusive evidence of compliance. Property sold, acquired, or otherwise transferred under this section is considered for all purposes to be property owned and held by the authority and used for public purposes.

[Sections 175.207-175.300 reserved for expansion]

SUBCHAPTER F. BONDS

Sec. 175.301. REVENUE BONDS. An authority may issue revenue bonds and notes in amounts the board considers necessary or appropriate for the acquisition, purchase, construction, reconstruction, repair, equipping, improvement, or extension of the authority's higher-speed rail facilities.

Sec. 175.302. SECURITY FOR PAYMENT OF BONDS. (a) To secure the payment of a bond or note, an authority may:

(1) encumber and pledge all or any part of the revenues of its higher-speed rail facilities;

(2) mortgage and encumber all or part of the property

of the higher-speed rail facilities and any thing pertaining to them that is acquired or to be acquired; and

(3) prescribe the terms and provisions of the bond or note in any manner not inconsistent with this chapter.

(b) Unless prohibited by the resolution or indenture relating to outstanding bonds or notes, an authority may encumber separately any item of property.

Sec. 175.303. BONDS AND NOTES AS AUTHORIZED INVESTMENTS AND SECURITY FOR DEPOSITS OF PUBLIC FUNDS. (a) Bonds and notes are legal and authorized investments for:

(1) a bank;

(2) a trust company;

(3) a savings and loan association; and

(4) an insurance company.

(b) The bonds and notes are:

(1) eligible to secure the deposit of public funds of this state or a municipality, county, school district, or other political corporation or subdivision of this state; and

(2) lawful and sufficient security for the deposits to the extent of the principal amount or market value of the bonds and notes, whichever is less.

Sec. 175.304. AWARDING CONSTRUCTION OR PURCHASE CONTRACTS. (a) A contract in the amount of more than $15,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies, or any other property other than real property may be let only through competitive bidding after notice is published, at least 15 days before the date set for

receiving bids, in a newspaper of general circulation in each county in the applicable border region.

(b) The board may adopt rules governing the taking of bids and the awarding of contracts.

(c) This section does not apply to:

(1) personal or professional services;

(2) the acquisition of an existing rail transportation system; or

(3) a contract with a common carrier to construct lines or to operate higher-speed rail service on lines wholly or partly owned by the carrier.

[Sections 175.305-175.350 reserved for expansion]

SUBCHAPTER G. TAXES

Sec. 175.351. TAX EXEMPTION. Authority property, material purchases, revenues, and income and the interest on a bond or note issued by an authority are exempt from all taxes imposed by this state or a political subdivision of this state.

Sec. 175.352. SALES AND USE TAX IMPOSED. A sales and use tax is imposed on items sold on authority property.

Sec. 175.353. TAX RATE. The sales and use tax imposed under Section 175.352 shall be imposed at the rate of the highest combination of local sales and use taxes imposed at the time of the authority's creation in any local governmental jurisdiction in the applicable border region.

Sec. 175.354. ABOLITION OF OTHER TAXES. All other local sales and use taxes that would otherwise be imposed on authority property are abolished by the imposition of the tax under Section

175.352.

Sec. 175.355. DUTY OF COMPTROLLER. The comptroller shall:

(1) administer, collect, and enforce the tax imposed under Section 175.352; and

(2) remit to the authority the local sales and use tax collected on the authority's property.

Sec. 175.356. APPLICABILITY OF TAX CODE. Chapter 321, Tax Code, governs the computation, administration, governance, and use of the tax except as inconsistent with this chapter.

Sec. 175.357. NOTICE TO COMPTROLLER. (a) An authority shall notify the comptroller in writing by registered or certified mail of the authority's creation and of its intent to impose the sales and use tax under Section 175.352.

(b) The authority shall provide to the comptroller all information required to implement the tax, including:

(1) an adequate map showing the property boundaries of the authority; and

(2) a certified copy of the resolution of the authority board adopting the tax.

(c) Not later than the 30th day after the date the comptroller receives the notice, map, and other information, the comptroller shall inform the authority of whether the comptroller is prepared to administer the tax.

Sec. 175.358. NOTICE TO LOCAL GOVERNMENTS. At the same time an authority notifies the comptroller under Section 175.357, the authority shall:

(1) notify each affected local governmental unit of

the authority's creation; and

(2) provide each with an adequate map showing the property boundaries of the authority.

Sec. 175.359. ACQUISITION OF ADDITIONAL TERRITORY SUBJECT TO TAX. (a) Not later than the 30th day after the date an authority adds territory to the authority, the authority shall notify the comptroller and each affected local governmental unit of the addition.

(b) The authority must include with each notification:

(1) an adequate map showing the new boundaries of the authority; and

(2) the date the additional territory was added.

(c) Not later than the 30th day after the date the comptroller receives the notice under this section, the comptroller shall inform the authority of whether the comptroller is prepared to administer the tax imposed under Section 175.352 in the additional territory.

Sec. 175.360. EFFECTIVE DATE OF TAX. A tax imposed under Section 175.352 or the abolition of a tax under Section 175.354 takes effect on the first day of the first complete calendar quarter that occurs after the expiration of the first complete calendar quarter that occurs after the date the comptroller receives a notice of the action as required by this subchapter.

ARTICLE 10. ELECTRONIC SIGNS

SECTION 10.01. Chapter 544, Transportation Code, is amended by adding Section 544.013 to read as follows:

Sec. 544.013. CHANGEABLE MESSAGE SIGN SYSTEM. (a) In this

section, "changeable message sign" means a sign that conforms to the manual and specifications adopted under Section 544.001. The term includes a dynamic message sign.

(b) The Texas Department of Transportation shall actively manage a system of changeable message signs located on highways under the jurisdiction of that department to mitigate traffic congestion by providing current information to the traveling public, including information about:

(1) traffic incidents;

(2) weather conditions, including severe weather advisories;

(3) an abducted child for whom the statewide alert system authorized by Subchapter L, Chapter 411, Government Code, has been activated;

(4) a missing senior citizen for whom a statewide silver alert authorized by Subchapter M, Chapter 411, Government Code, has been activated;

(5) the availability of gas, food, lodging, or pharmacy services or other relevant information during an evacuation or after an order declaring a state of disaster under Chapter 418, Government Code;

(6) road construction; and

(7) alternative routes.

(c) Not later than June 1, 2010, the department shall explore implementing a system of changeable message signs along designated evacuation routes. This subsection expires September 1, 2011.

ARTICLE 11. AUTOMOBILE BURGLARY AND THEFT PREVENTION AUTHORITY

SECTION 11.01. Section 1(3), Article 4413(37), Revised Statutes, is amended to read as follows:

(3) "Office" [~~"Department"~~] means the office of the governor [~~Texas Department of Transportation~~].

SECTION 11.02. Section 2, Article 4413(37), Revised Statutes, is amended to read as follows:

Sec. 2. ESTABLISHMENT OF AUTHORITY. The Automobile Burglary and Theft Prevention Authority is established in the office of the governor [~~Texas Department of Transportation~~]. The authority is not an advisory body to the governor [~~Texas Department of Transportation~~].

SECTION 11.03. Sections 3(h) and (l), Article 4413(37), Revised Statutes, are amended to read as follows:

(h) If a person [~~the director~~] has knowledge that a potential ground for removal exists, the person [~~director~~] shall notify the presiding officer of the authority of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the person [~~director~~] shall notify the next highest officer of the authority, who shall notify the governor and the attorney general that a potential ground for removal exists.

(l) The governor's [~~director or the director's~~] designee shall provide to members of the authority, as often as necessary, information regarding their qualifications for office under this article and their responsibilities under applicable laws relating

to standards of conduct for state officers.

SECTION 11.04. Section 5(d), Article 4413(37), Revised Statutes, is amended to read as follows:

(d) The training program required by Subsection (c) must provide information to the person regarding:

(1) the enabling legislation that created the authority and its policymaking body to which the member is appointed to serve;

(2) the programs operated by the authority;

(3) the role and functions of the authority;

(4) the rules of the authority [~~and the department~~];

(5) the current budget for the authority;

(6) the results of the most recent formal audit of the authority;

(7) the requirements of the:

(A) open meetings law, Chapter 551, Government Code;

(B) open records law, Chapter 552, Government Code; and

(C) administrative procedure law, Chapter 2001, Government Code;

(8) the requirements of the conflict-of-interest laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by the office [~~department~~] or the Texas Ethics Commission.

SECTION 11.05. Sections 6(c), (d), (e), (f), and (g), Article 4413(37), Revised Statutes, are amended to read as follows:

(c) The authority may use only staff of the office [~~department~~] and may delegate authority to the staff as needed.

(d) Not later than April 1 of each year, the authority shall report on its activities to the governor, the lieutenant governor, and the speaker of the house of representatives.

(e) The authority may be provided various services only by or through the office [~~department~~] as needed to carry out its purposes, powers, and duties. These services may include, but are not limited to, legal services not provided by the attorney general, fiscal services, administrative services, and personnel services. Except as provided by this section, the authority may enter into contracts in its own name and on its own behalf with recipients of grants for purposes of this article.

(f) The office [~~department~~] shall provide personnel and services to the authority as agreed by the authority and the office [~~department~~].

(g) The authority shall, in coordination with the office [~~department~~], develop and implement policies that clearly separate the policymaking responsibilities of the authority and the management responsibilities of the office [~~department~~].

SECTION 11.06. Section 8(a), Article 4413(37), Revised Statutes, as amended by Chapters 308 (H.B. 1887) and 927 (H.B. 3225), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:

(a) Money appropriated to the office [~~department~~] for authority purposes shall be used by the authority to pay the office [~~department~~] for administrative costs and to achieve the purposes

of this article, including:

(1) establishing and funding the motor vehicle registration program required by Section 9 of this article;

(2) providing financial support to law enforcement agencies for economic motor vehicle theft enforcement teams;

(3) providing financial support to law enforcement agencies, local prosecutors, judicial agencies, and neighborhood, community, business, and nonprofit organizations for programs designed to reduce the incidence of economic motor vehicle theft;

(4) conducting educational programs designed to inform motor vehicle owners of methods of preventing motor vehicle burglary or theft;

(5) providing equipment, for experimental purposes, to assist motor vehicle owners in preventing motor vehicle burglary or theft; and

(6) establishing a uniform program to prevent stolen motor vehicles from entering Mexico.

SECTION 11.07. Section 8(c), Article 4413(37), Revised Statutes, is amended to read as follows:

(c) The cost of personnel and services provided to the authority by the office [~~department~~] and by the attorney general may be paid only from appropriations made for authority purposes. Appropriations made for authority purposes may not be used for any other purpose.

SECTION 11.08. Section 9(e), Article 4413(37), Revised Statutes, is amended to read as follows:

(e) The Department of Public Safety [~~department~~] shall

issue to the owner of a motor vehicle registered under this section a decal or other appropriate identifying marker to be affixed to the motor vehicle to indicate that the motor vehicle is registered with the program.

SECTION 11.09. Section 1(4), Article 4413(37), Revised Statutes, is repealed.

SECTION 11.10. (a) In connection with the establishment by this Act of the Automobile Burglary and Theft Prevention Authority in the office of the governor and with the transfer by this Act of the duty to provide personnel and services to the Automobile Burglary and Theft Prevention Authority from the Texas Department of Transportation to the office of the governor, the personnel, furniture, computers, other property and equipment, files, and related materials used by the Automobile Burglary and Theft Prevention Authority are transferred to the office of the governor.

(b) The unobligated and unexpended balance of any appropriations made to the Texas Department of Transportation in connection with or relating to the Automobile Burglary and Theft Prevention Authority for the state fiscal biennium ending August 31, 2009, is transferred and reappropriated to the office of the governor for the purpose of allowing the authority to continue to exercise its powers, duties, and obligations under the auspices of that office.

ARTICLE 12. STATE FINANCING OF PUBLIC TRANSPORTATION

SECTION 12.01. Subchapter A, Chapter 456, Transportation Code, is amended by adding Section 456.009 to read as follows:

Sec. 456.009. ALLOCATION OF FUNDS. (a) The commission

shall adopt rules to allocate funds to designated recipients under this chapter.

(b) Subject to Subsection (c), of the total amount of money allocated under this chapter, the commission may not distribute:

(1) less than 90 percent of the total amount allocated under the formula program provided by Subchapter B; and

(2) more than 10 percent of the total amount allocated under the discretionary program provided by Subchapter C.

(c) The rules established by the commission under this section must include a provision ensuring that no recipient of state funding under Subchapter B or C receives an amount of funding allocated under those subchapters that is less than the total amount of state funding received under those subchapters in the state fiscal year beginning September 1, 2004.

ARTICLE 13. MEMORANDA OF UNDERSTANDING

SECTION 13.01. (a) The board of the Texas Department of Motor Vehicles and the Texas Transportation Commission by rule shall adopt or revise a joint memorandum of understanding to coordinate the Texas Department of Motor Vehicles' and the Texas Department of Transportation's information systems to allow for the sharing of information so that each department may effectively and efficiently perform the functions and duties assigned to it.

(b) The Texas Department of Motor Vehicles and the Texas Department of Transportation shall implement the joint memorandum of understanding using existing personnel and resources.

(c) Otherwise confidential information shared under the memorandum of understanding remains subject to the same

confidentiality requirements and legal restrictions on access to the information that are imposed by law on the department that originally obtained or collected the information.

(d) Information may be shared under the memorandum of understanding without the consent of the person who is the subject of the information.

SECTION 13.02. In addition to the memorandum of understanding required by Section 13.01 of this article, the board of the Texas Department of Motor Vehicles and the Texas Transportation Commission by rule may adopt or revise one or more other joint memoranda of understanding as considered necessary or appropriate to effectuate the transfer of the powers and duties of the Texas Department of Transportation to the Texas Department of Motor Vehicles under this Act.

ARTICLE 14. EFFECTIVE DATE

SECTION 14.01. This Act takes effect September 1, 2009.



ADOPTED As Amended

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

ENGROSSED RIDER NO. 2

FLOOR AMENDMENT NO. 1

Amend C.S.H.B. No. 300 (House Committee printing),81st Legislative Session, by amending and adding appropriately numbered Section(s) of the Bill to read as follows:

Chapter 201, Title 6, Subtitle A, Transportation Code, is amended by adding and amending appropriately lettered and numbered Subchapter and Section references, relating to the abolition of the Texas Transportation Commission and the creation of the commissioner of transportation as an elected statutory state officer, to read as follows:

On Page 1, after line 8 and before line 9, Section 201.003, Transportation Code, is amended to read as follows:

Sec. 201.003. TITLE AND ORGANIZATIONAL CHANGES. (a) A reference in law to the State Highway Department, Texas Highway Department, or State Department of Highways and Public Transportation means the Texas Department of Transportation.

(b) A reference in law to the State Highway Commission, [~~or~~] State Highway and Public Transportation Commission, or Texas Transportation Commission means the commissioner of transportation [~~Texas Transportation Commission~~].

(c) A reference in law to the State Highway Engineer, [~~or~~] State Engineer-Director for Highways and Public Transportation, or [~~means~~] the director of the Texas Department of Transportation means the commissioner of transportation.

(d) [~~A reference in law to the commissioner of transportation means the chair of the commission.~~

[~~(e)~~] A [~~reference in~~] law that authorizes the Texas Transportation Commission to authorize the director of the Texas Department of Transportation to take an action shall be construed to authorize the commissioner of transportation to take that action [~~to a member of the commission means a~~

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~~commissioner~~].

On page 2, after line 9, Subchapter B, Chapter 201, Transportation Code, is amended and subparagraphs (c) - (j) are renumbered to read as follows:

SUBCHAPTER B. COMMISSIONER OF [~~TEXAS~~] TRANSPORTATION [~~COMMISSION~~]

Sec. 201.051. COMMISSIONER [~~COMMISSION~~]. (a) The commissioner is elected for a term of four years [~~Texas Transportation Commission consists of five members appointed by the governor with the advice and consent of the senate~~].

(b) To be eligible for election as commissioner, or appointment to fill a vacancy in the office of commissioner, a [~~The members shall be appointed to reflect the diverse geographic regions and population groups of this state. One member must reside in a rural area.~~

[~~(c) Each member of the commission must represent the general public.~~

[~~(d) Except as provided by Subsection (c), a person is not eligible for appointment as a member of the commission if the~~] person or the person's spouse may not:

(1) be [~~is~~] employed by or participate [~~participates~~] in the management of a business entity or other organization that is regulated by or receives funds from the department;

(2) directly or indirectly own or control [~~owns or controls~~] more than 10 percent interest in a business entity or other organization that is regulated by or receives funds from the department;

(3) use or receive [~~uses or receives~~] a substantial amount of tangible goods, services, or funds from the department, other than compensation or reimbursement authorized by law for [~~commission membership, attendance, or~~] expenses; or

(4) be [~~is~~] registered, certified, or licensed by the

department.

(c) [~~(f)~~] An officer, employee, or paid consultant of a Texas trade association in the field of road construction or maintenance, aviation, or outdoor advertising or a Texas trade association of automobile dealers is not eligible for election or appointment as commissioner [~~may not be a member of the commission~~].

(d) [~~(g)~~] The spouse of an officer, manager, or paid consultant of a Texas trade association in the field of road construction or maintenance, aviation, or outdoor advertising or a Texas association of automobile dealers is not eligible for election or appointment as commissioner [~~may not be a member of the commission~~].

(e) [~~(h)~~] A person required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department is not eligible for election or appointment as commissioner [~~may not serve as a member of the commission~~].

(f) [~~(i) Appointments to the commission shall be made without regard to race, color, disability, sex, religion, age, or national origin of the appointees and shall reflect the diversity of the population of the state as a whole.~~]

[~~(j)~~] In this section, "Texas trade association" means a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(g) The commissioner is a successor to the Texas Transportation Commission for all purposes, including for the purposes of Sections 49-k, 49-l, 49-m, 49-n, and 49-o, Article

III, Texas Constitution.

On Page 2 after line 19, and before Page 4, line 3, Sections 201.052, 201.053, 201.054, 201.0545, 201.056, 201.057, 201.058, and 201.059 of the Transportation Code are amended and renumbered appropriately as follows:

Sec. 201.052. CERTAIN DUTIES. [~~TERMS. Members of the commission serve staggered six-year terms, with the terms of either one or two members expiring February 1 of each odd-numbered year.~~

[~~Sec. 201.053. CHAIR OF THE COMMISSION. (a) The governor periodically shall designate one commissioner as the chair of the commission, who shall serve as presiding officer of the commission.~~

[~~(b)~~] The commissioner [~~chair~~] shall:

(1) preside over [~~commission~~] meetings, make rulings on motions and points of order, and determine the order of business;

(2) represent the department in dealing with the governor;

(3) report to the governor on the state of affairs of the department at least quarterly;

(4) [~~report to the commission the governor's suggestions for department operations;~~

[~~(5)~~] report to the governor on efforts, including legislative requirements, to maximize the efficiency of department operations through the use of private enterprise;

(5) [~~(6)~~] periodically review the department's organizational structure and submit recommendations for structural changes to the governor[~~, the commission,~~] and the Legislative Budget Board;

(6) [~~(7)~~] designate one or more employees of the department as a civil rights division of the department and

receive regular reports from the division on the department's efforts to comply with civil rights legislation and administrative rules;

(7) [~~(8) create subcommittees, appoint commissioners to subcommittees, and receive the reports of subcommittees to the commission as a whole;~~

[~~(9)~~] appoint a deputy commissioner to act in the commissioner's [~~chair's~~] absence; and

(8) [~~(10)~~] serve as the departmental liaison with the governor and the Office of State-Federal Relations to maximize federal funding for transportation.

[~~Sec. 201.054. COMMISSION MEETINGS. The commission shall hold regular meetings at least once a month and special meetings at the call of the chair. Commissioners shall attend the meetings of the commission. The chair shall oversee the preparation of an agenda for each meeting and ensure that a copy is provided to each commissioner at least seven days before the meeting.~~]

Sec. 201.053 [~~201.0545~~]. RECOMMENDATIONS TO LEGISLATURE. (a) The commissioner [~~commission~~] shall consider ways in which the department's operations may be improved and may periodically report to the legislature concerning potential statutory changes that would improve the operation of the department.

(b) The commissioner [~~On behalf of the commission, the chair~~] shall report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of relevant legislative committees on legislative recommendations adopted by the commissioner [~~commission~~] and relating to the operation of the department.

Sec. 201.054 [~~201.056~~]. COMPENSATION. The commissioner [~~A member of the commission~~] is entitled to compensation as provided by the General Appropriations Act. If compensation for

the commissioner [~~members~~] is not provided by that Act, the commissioner [~~each member~~] is entitled to reimbursement for actual and necessary expenses incurred in performing functions as commissioner [~~a member of the commission~~].

Sec. 201.055 [~~201.057~~]. GROUNDS FOR REMOVAL. [~~(a)~~] It is a ground for removal [~~from the commission~~] if the [~~a~~] commissioner:

(1) does not have at the time of election or appointment or maintain during service as commissioner [~~on the commission~~] the qualifications required by Section 201.051;

(2) violates a prohibition provided by Section 201.051; or

(3) cannot discharge the commissioner's duties for a substantial part of the term for which the commissioner is elected or appointed because of illness or disability[~~; or~~

[~~(4) is absent from more than half of the regularly scheduled commission meetings that the commissioner is eligible to attend during a calendar year, unless the absence is excused by majority vote of the commission~~].

[~~(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commissioner exists.~~

[~~(c) If the director knows that a potential ground for removal exists, the director shall notify the chair of the commission of the ground, and the chair shall notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal relates to the chair, the director shall notify another commissioner, who shall notify the governor and the attorney general that a potential ground for removal exists.~~]

Sec. 201.056 [~~201.058~~]. INFORMATION ON QUALIFICATIONS AND CONDUCT. The department shall provide to the commissioner

[~~members of the commission~~], as often as necessary, information concerning the commissioner's [~~members'~~] qualifications for office and the commissioner's [~~under Subchapter B and their~~] responsibilities under applicable laws relating to standards of conduct for state officers.

[~~Sec. 201.059. TRAINING ON DEPARTMENT AND CERTAIN LAWS RELATING TO DEPARTMENT. (a) To be eligible to take office as a member of the commission, a person appointed to the commission must complete at least one course of a training program that complies with this section.~~

[~~(b) The training program must provide information to the person regarding:~~

[~~(1) this subchapter;~~

[~~(2) the programs operated by the department;~~

[~~(3) the role and functions of the department;~~

[~~(4) the rules of the department with an emphasis on the rules that relate to disciplinary and investigatory authority;~~

[~~(5) the current budget for the department;~~

[~~(6) the results of the most recent formal audit of the department;~~

[~~(7) the requirements of the:~~

[~~(A) open meetings law, Chapter 551, Government Code;~~

[~~(B) open records law, Chapter 552, Government Code; and~~

[~~(C) administrative procedure law, Chapter 2001, Government Code;~~

[~~(8) the requirements of the conflict of interest laws and other laws relating to public officials; and~~

[~~(9) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.~~

[~~(c) A person appointed to the commission is entitled to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act and as if the person were a member of the commission.~~]

At page 6, after line 12, Sections 201.201 and 201.202, Transportation Code, are amended to read as follows:

Sec. 201.201. GOVERNANCE OF DEPARTMENT. The commissioner [~~commission~~] governs the Texas Department of Transportation.

Sec. 201.202. DIVISIONS; DIVISION PERSONNEL. (a) The commissioner [~~commission~~] shall organize the department into divisions to accomplish the department's functions and the duties assigned to it, including divisions for:

(1) aviation;

(2) highways and roads;

(3) public transportation; and

(4) rail transportation [~~motor vehicle titles and registration~~].

(b) The person designated by the commissioner [~~director~~] to supervise the division responsible for highways and roads must be a registered professional engineer experienced and skilled in highway construction and maintenance.

[~~(c) In appointing a person to supervise a function previously performed by the former State Department of Highways and Public Transportation, Texas Department of Aviation, or Texas Turnpike Authority, preference shall be given to a person employed in a similar position in that former agency.~~]

At Page 9, after line 10, Subchapter E, Chapter 201, Transportation Code, Sections 201.301, 201.302, and 201.303 are amended and renumbered appropriately to read as follows:

SUBCHAPTER E. STATE ROAD MAP; UNIVERSITY LABORATORIES [~~DIRECTOR~~]

Sec. 201.301. [~~EXECUTIVE DIRECTOR. (a) The commission~~

~~shall elect an executive director for the department. The director must be a registered professional engineer in this state and experienced and skilled in transportation planning, development, construction, and maintenance.~~

~~[(b) The director serves at the will of the commission.~~

~~[(d) The director shall:~~

~~[(1) serve the commission in an advisory capacity, without vote; and~~

~~[(2) submit to the commission, quarterly, annually, and biennially, detailed reports of the progress of public road construction, detailed reports of public and mass transportation development, and detailed statements of expenditures.~~

~~[(e) The director is entitled to actual expenses for and related to travel away from Austin in performance of the director's duties under the direction of the commission.~~

[~~Sec. 201.302.~~] STATE ROAD MAP. The commissioner [~~director~~] shall make, regularly revise, and keep in a form convenient for examination in the office of the department a complete road map of the state that shows road construction in the counties.

Sec. 201.302 [~~201.303~~]. USE OF UNIVERSITY LABORATORIES FOR ANALYZING MATERIALS. The commissioner [~~director~~] may use laboratories maintained at Texas A&M University and The University of Texas to test and analyze road and bridge material. Persons in charge of the laboratories shall cooperate with and assist the commissioner [~~director~~] with those tests and analyses.

On Page 76 after line 14, Section 223.105, Transportation Code, is repealed.

On Page 77 after line 7, Section 504.401(d), Transportation Code, is amended and subparagraph (11) is added, and subparagraphs (12) and (13) renumbered appropriately to read as

follows:

(d) In this section, "state official" means:

(1) a member of the legislature;

(2) the governor;

(3) the lieutenant governor;

(4) a justice of the supreme court;

(5) a judge of the court of criminal appeals;

(6) the attorney general;

(7) the commissioner of the General Land Office;

(8) the comptroller;

(9) a member of the Railroad Commission of Texas;

(10) the commissioner of agriculture;

(11) the commissioner of transportation;

(12) the secretary of state; or

(13) [~~(12)~~] a member of the State Board of Education.

On Page 82, after line 21, Section 52.092(c), a new Section is added and the Election Code is amended by adding subparagraph (7) and renumbering subparagraphs (8)-(12) appropriately, to read as follows:

(c) Statewide offices of the state government shall be listed in the following order:

(1) governor;

(2) lieutenant governor;

(3) attorney general;

(4) comptroller of public accounts;

(5) commissioner of the General Land Office;

(6) commissioner of agriculture;

(7) commissioner of transportation;

(8) railroad commissioner;

(9) [~~(8)~~] chief justice, supreme court;

(10) [~~(9)~~] justice, supreme court;

(11) [~~(10)~~] presiding judge, court of criminal

appeals;

(12) [~~(11)~~] judge, court of criminal appeals.

An appropriately numbered Section is added to the Bill, and other subsequent Sections of the Bill renumbered appropriately, to read as follows:

SECTION ___. (a) The first commissioner of transportation elected under the changes in law made by this Act shall be elected at the general election held in November 2010 to serve for a term that begins January 1, 2011.

(b) Until the first commissioner of transportation elected under this Act takes office, the members of the Texas Transportation Commission and the executive director of the Texas Department of Transportation serving on the effective date of this Act shall, unless otherwise removed as provided by law, continue in office under the prior law that governed the composition of the Texas Transportation Commission, and that prior law is continued in effect for that purpose. If, on January 1, 2011, there is a vacancy in the new office of commissioner of transportation created under this Act because the first commissioner of transportation-elect has died or refuses or is permanently unable to serve, the members of the Texas Transportation Commission and the executive director of the Texas Department of Transportation serving on the effective date of this Act shall, unless otherwise removed as provided by law, continue in office under the prior law that governed the composition of the Texas Transportation Commission until the governor fills the vacancy by appointment in the manner provided by law. The prior law that governed the composition of the Texas Transportation Commission and the executive director of the Texas Department of Transportation is continued in effect for that purpose. At the time that the first commissioner of transportation that is elected, or in extraordinary

circumstances appointed, under this Act takes office, the Texas Transportation Commission is abolished.

(c) The commissioner of transportation succeeds to all powers, duties, rights, and obligations of the Texas Transportation Commission, and the abolition of the Texas Transportation Commission does not affect the validity of any right, duty, decision, rule, or action of any kind taken by or under the authority of the commission.

811789

ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

ENGROSSED RIDER NO. 3

FLOOR AMENDMENT NO. 3 BY: _____

Amend Amendment No. 1 by McClendon to C.S.H.B. No. 300 (on page 323 of the Amendment Packet) as follows:

(1) Strike page 2, line 2, through page 12, line 8 of the amendment.

(2) Add the following appropriately numbered items to the amendment and renumber subsequent items of the amendment accordingly:

(_) Strike SECTIONS 1.01 and 1.02 of Article 1 of the bill (page 1, line 9, through page 2, line 24) and substitute the following:

SECTION 1.01. Sections 201.051(a), (b), and (d), Transportation Code, are amended to read as follows:

(a) The Texas Transportation Commission consists of 15 [~~five~~] members, with 14 members elected from geographic districts and one member elected at large [~~appointed by the governor with the advice and consent of the senate~~].

(b) The legislature shall, at its first regular session after the publication of each United States decennial census, reapportion the geographic districts described in Subsection (a). The districts shall be substantially equal in population, according to the most recent United States decennial census. The legislature shall consider county lines, senatorial and representative districts, and commissioners precincts in the reapportionment process [~~members shall be appointed to reflect the diverse geographic regions and population groups of this state. One member must reside in a rural area~~].

(d) A [~~Except as provided by Subsection (e), a~~] person may not serve [~~is not eligible for appointment~~] as a member of the commission if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization that is regulated by or receives funds from the department;

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

(3) uses or receives a substantial amount of tangible goods, services, or funds from the department, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses; or

(4) is registered, certified, or licensed by the department.

SECTION 1.02. Section 201.053(a), Transportation Code, is amended to read as follows:

(a) The member of the commission elected at large is [~~governor periodically shall designate one commissioner as~~] the chair of the commission, who shall serve as presiding officer of the commission.

(_) Add the following appropriately numbered SECTIONS to Article 1 of the bill and renumber subsequent SECTIONS of that article as appropriate:

SECTION 1.___. Section 201.052, Transportation Code, is amended to read as follows:

Sec. 201.052. TERMS. Members of the commission elected from geographic districts serve two-year [~~staggered six-year~~] terms, and the member elected at large serves a four-year term. The [~~, with the~~] terms of the [~~either one or two~~] members expire January [~~expiring February~~] 1 of an [~~each~~] odd-numbered year.

SECTION 1.___. Section 52.092(c), Election Code, is amended to read as follows:

(c) Statewide offices of the state government shall be listed in the following order:

(1) governor;

(2) lieutenant governor;

(3) attorney general;

(4) comptroller of public accounts;

(5) commissioner of the General Land Office;

(6) commissioner of agriculture;

(7) transportation commission, chair;

(8) transportation commissioner;

(9) railroad commissioner;

(10) [~~(8)~~] chief justice, supreme court;

(11) [~~(9)~~] justice, supreme court;

(12) [~~(10)~~] presiding judge, court of criminal appeals;

(13) [~~(11)~~] judge, court of criminal appeals.

SECTION 1.___. Sections 201.051(c) and (i), Transportation Code, are repealed.

SECTION 1.___. (a) The legislature shall first apportion the geographic districts described in Section 201.051(a), Transportation Code, as amended by this article, at the 82nd Legislature, Regular Session, 2011.

(b) The first members of the Texas Transportation Commission elected under the changes in law made by this article shall be elected at the general election held in November 2012 to serve for a term that begins January 1, 2013.

(c) Until the members of the Texas Transportation Commission elected under this article take office, the governor will continue to appoint members to the Texas Transportation Commission and those members shall, unless otherwise removed as provided by law, continue in office under the prior law that governed the composition of the Texas Transportation Commission, and that prior law is continued in effect for that purpose.

ENGROSSED RIDER NO. 4

811791

FLOOR AMENDMENT NO. 4 BY: _____

Amend Amendment No. 1 by McClendon to C.S.H.B. No. 300 (page 323 of the amendment packet) on page 325, between line 1 and 2, by inserting the following:

(h) A vacancy in the office of commissioner is filled by election by the legislature. The legislature fills a vacancy by the vote of each house sitting separately. A person is elected as commissioner by the legislature if the person receives a majority of the votes cast in each house for the person's election.

ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

215

9.127.509 UM

811610

ENGROSSED RIDER NO. 5

Floor Amendment 5

By Eiland

09 [illegible] 2:14

HOUSE OF REPRESENTATIVES

Amend CSHB 300 as follows;

On page 5, line 17 after "Internet." Insert the following;

In addition, the commission shall use available technology to enhance compliance with Chapter 601, Transportation Code, Texas Motor Vehicle Safety Responsibility Act.

ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

811628

ENGROSSED RIDER NO. 6

FLOOR AMENDMENT NO. 6 BY: Carl Alvarez

09 MAY -6 PM 9:01

HOUSE OF REPRESENTATIVES

Amend the proposed committee substitute to H.B. No. 300, on page 8, line 14, between "legislation" and the period, by inserting ", including selecting, hiring, or retaining a person required to register under Chapter 305, Government Code, or the Lobbying Disclosure Act of 1995 (2 U.S.C. Section 1601 et seq.).

ADOPTED
MAY 07 2009
Robert Haney
Chief Clerk
House of Representatives

AS Amended

217

9.118.132 MTB

ENGROSSED RIDER NO. 7



ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 7 BY: Pickett

Amend Amendment No. 6 by Alvarado to C.S.H.B. No. 300 on page 1, line 5 of the amendment, between "seq.)" and the period by inserting "for the purpose of lobbying".

218

P. 35

628

1

9.127.294 JTS

811645

ENGROSSED RIDER NO. 8

09 MAY -6 PM 9:30
HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. 8 BY: David Crawford

Amend C.S.H.B. No. 300 (house committee printing), on page 9, lines 25 and 26, by striking "commission and director" and substituting "director or the director's designee".

ADOPTED
MAY 07 2009
Robert Haney
Chief Clerk
House of Representatives

219
1

9.126.696 JAM

ENGROSSED RIDER NO. 9



09 MAY -6 PM 7:26

HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. 9 BY: Wayne Smith

Amend C.S.H.B. No. 300 (house committee printing) as follows:

(1) On page 10, line 17, after "entity" and before the underlined period, insert "using federal or state funds, or a project to be constructed on a part of the federal highway system or state highway system".

(2) On page 10, strike lines 23 through 27 and substitute the following:

environmental documentation to the department;

(3) the environmental documents must meet the approval of the United States Department of Transportation, Federal Highway Administration, if the project requires the approval of that agency; and

(4) the environmental documents must meet the approval of the department, if the project affects a part of the state highway system.

ADOPTED
MAY 07 2009
Robert Haney
Chief Clerk
House of Representatives

220

811626

ENGROSSED RIDER NO. 10

09 MAY -6 PM 8:48

HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. 10 BY: Joe Pickett

Amend C.S.H.B. No. 300 (house committee printing) as follows:

(1) On page 12, line 16, strike "six" and substitute "eight".

(2) On page 12, between lines 20 and 21, insert the following:

(3) the chair of the Senate Committee on Finance;

(4) the chair of the House Committee on Appropriations;

(3) On page 12, line 21, strike "(3)" and substitute "(5)".

(4) On page 12, line 23, strike "(4)" and substitute "(6)".

ADOPTED

MAY 07 2009

Robert Haney

Chief Clerk

House of Representatives

811631

ENGROSSED RIDER NO. 11

09 MAY -6 PM 9:08

HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. 12 BY: _____

Amend C.S.H.B. No. 300 (house committee printing) in ARTICLE 1 of the bill on page 19, between lines 3 and 4, by inserting the following SECTION, appropriately numbered:

SECTION 1.___. (a) The terms of the members of the Texas Transportation Commission serving on the effective date of this Act expire September 1, 2009, and members shall be appointed in accordance with Section 201.051, Transportation Code, as amended by this Act, for terms to begin September 1, 2009.

(b) As soon as practicable after appointment, members appointed under Subsection (a) of this section shall draw lots to determine whose terms will expire February 1, 2011, whose terms will expire February 1, 2013, and whose terms will expire February 1, 2015.

ADOPTED

MAY 07 2009

Robert Haney

Chief Clerk

House of Representatives

222

1

ENGROSSED RIDER NO. 12

ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 13 BY: [signature]

Amend C.S.H.B. No. 300 (House committee printing) in ARTICLE 1 of the bill, by adding the following SECTION, appropriately numbered, and renumbering subsequent SECTIONS of that article accordingly:

SECTION 1.___. The Texas Department of Transportation shall determine the cost of up-grading the existing railroad tracks between Brownsville and Starr County for use as freight and passenger rail lines.

223

9.126.760 KJM

ENGROSSED RIDER NO. 13

ADOPTED AS Amended
MAY 07 2009
Robert Haney Chief Clerk House of Representatives

FLOOR AMENDMENT NO. 14 BY: [signature]

Amend C.S.H.B. 300 (committee printing) by adding the following appropriately numbered SECTIONS to ARTICLE 1 of the bill and renumbering subsequent SECTIONS of the ARTICLE accordingly:

SECTION 1.__. The heading to Subchapter E, Chapter 186, Utilities Code, is amended to read as follows:

SUBCHAPTER E. CONSTRUCTION AND MAINTENANCE OF FACILITIES ALONG, OVER, UNDER, OR ACROSS RAILROAD AND CERTAIN PUBLIC RIGHTS-OF-WAY [RIGHT-OF-WAY]

SECTION 1.__. Subchapter E, Chapter 186, Utilities Code, is amended by adding Section 186.062 to read as follows:

Sec. 186.062. AUTHORITY TO LAY AND MAINTAIN PIPELINES. (a) In this section, "gas utility" has the meaning assigned by Section 181.021, Utilities Code.

(b) Notwithstanding any other provision of this subchapter, a common carrier, energy transporter, or gas utility has the right to lay and maintain lines over, under, and across a public road, an interurban railroad, a street railroad, a canal or stream, or a municipal street or alley only if the common carrier, energy transporter, or gas utility:

(1) is subject to the jurisdiction, control, and regulation of the Railroad Commission of Texas and, as applicable, subject to safety standard requirements pertaining to gas pipeline facilities and transmission lines; and

(2) complies with all applicable state rules consistent with this section and all applicable federal regulations on the accommodation of utility facilities on a highway or right-of-way, including applicable rules and regulations relating to the horizontal and vertical location of a pipeline.

(c) The right granted by Subsection (b) relating to the use of a municipal street or alley is subject to the payment of charges in accordance with Section 121.2025 of this code and Section 182.025, Tax Code. Notwithstanding Section 203.092, Transportation Code, an energy transporter shall relocate its pipeline facilities at the energy transporter's expense unless it has a property interest in the land occupied by the pipeline to be relocated.

(d) A common carrier, energy transporter, or gas utility that lays or maintains lines under this section shall promptly restore any transportation facility, canal, or stream to its former condition of usefulness after the installation or maintenance of the line is complete.

ENGROSSED RIDER NO. 14



FLOOR AMENDMENT NO. 15 BY: 

Amend Floor Amendment No. 14 by Isett to C.S.H.B. No. 300 (page 140, prefiled amendment packet) as follows:

(1) On page 1, line 14, strike "181.021" and substitute "101.003".

(2) On page 1, lines 15 and 16, strike "Notwithstanding any other provision of this subchapter, a", and substitute "A".

(3) On page 1, line 17, between "lines" and "over", insert "along,".

ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

226

9.127.311 TRH

ENGROSSED RIDER NO. 15



FLOOR AMENDMENT NO. 17 BY: 

Amend C.S.H.B. No. 300 (House committee printing) in ARTICLE 1 of the bill by adding the following SECTION to that ARTICLE and renumbering subsequent SECTIONS accordingly:

SECTION 1.___. Section 201.403, Transportation Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) During the period of a hiring freeze that the legislature requires the department to implement, the department is not required to comply with Subsection (a) if a vacancy in a position to which that subsection applies can be and is filled by the transfer or reassignment of a department employee.

09 MAY -6 PM 6:10
HOUSE OF REPRESENTATIVES

ADOPTED
MAY 07 2009
Robert Haney
Chief Clerk
House of Representatives

227

811706

ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

ENGROSSED RIDER NO. 16

FLOOR AMENDMENT NO. 18

BY: Phillips

Amend C.S.H.B. No. 300 (House committee printing) in ARTICLE 1 of the bill by adding the following SECTION to that ARTICLE and renumbering subsequent SECTIONS accordingly:

SECTION 1.___. Section 201.403, Transportation Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) The department is not required to comply with the requirements of Subsection (a) when the department transfers or reassigns an employee:

(1) as part of a reorganization if the director certifies that the transfer or reassignment is necessary for the proper implementation of the reorganization; or

(2) to fill a vacancy during a hiring freeze mandated by the legislature.

228

ENGROSSED RIDER NO. 17



ADOPTED As Amended

MAY 07 2009

Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 19 BY:

Amend C.S.H.B. 300 (house committee printing) be adding the following appropriately numbered SECTION to ARTICLE 1 of the bill and renumbering subsequent SECTIONS of that article accordingly:

SECTION 1.___. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.6041 to read as follows:

Sec. 201.6041. ALTERNATIVES TO TOLLING; REPORT. (a) Before the department may enter into a contract for the construction of a tolled highway project, the department must submit to the legislature a report summarizing the findings of the draft environmental impact statement or other similar statement under Section 201.604, as applicable, associated with the project that relate to the comparison of the advantages and disadvantages of pursuing the project as a tolled highway project instead of a nontolled highway project or any other alternatives.

(b) The report must demonstrate that:

(1) in preparing the draft environmental impact statement or similar document, as applicable, the department fully complied with the requirements of:

(A) the National Environmental Policy Act (42 U.S.C. Section 4321 et seq.) or Section 201.604 of this code, as applicable; and

(B) applicable state and federal guidelines regarding the analysis of data and information;

(2) the department has afforded meaningful involvement to, and given consideration to input from, local elected officials and the public; and

(3) the selected tolled highway project is the most cost-effective and least environmentally harmful alternative.

(c) The department shall provide the report required by this

section to:

(1) the lieutenant governor;

(2) the speaker of the house of representatives; and

(3) the presiding officer of the standing committees of the senate and the house of representatives with jurisdiction over transportation issues.

(d) A report under this section must be provided to the legislature not later than December 1 of each even-numbered year. The department may not enter into a contract for the construction of a tolled highway project that is included in a report under this section before July 1 of the year that follows the year the report is provided.

ENGROSSED RIDER NO. 18

811740

FLOOR AMENDMENT NO. 20 BY: Pickett

19

Amend the Coleman amendment to C.S.H.B. 300 as follows:

(1) On page 1, line 6, strike "(a)".

(2) Strike Subsections (b), (c), and (d) (page 1, line 15 through page 2, line 12).

ADOPTED
MAY 07 2009
Robert Haney
Chief Clerk
House of Representatives

pg 70

576

ENGROSSED RIDER NO. 1

811607

09MAY -6 PM 2:40

HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO 23 BY: Y Davis

Amend C.S.H.B. No. 300 (House committee printing) in ARTICLE 1 of the bill by adding the following SECTION to that ARTICLE and renumbering subsequent SECTIONS accordingly:

SECTION 1.___. Subchapter D, Chapter 201, Transportation Code, is amended by adding Section 201.2025 to read as follows:

Sec. 201.2025. BUSINESS DEVELOPMENT AND PROGRAM OFFICE. The department's business development and program office shall administer the department's disadvantaged business enterprise program and small business enterprise program.

ADOPTED

MAY 07 2009

Robert Haney

Chief Clerk

House of Representatives

232

811689

ENGROSSED RIDER NO. 20

FLOOR AMENDMENT NO. 24 -6 PM 9:54 BY: Lavalin Harper Brown

HOUSE OF REPRESENTATIVES

Amend C.S.H.B. No. 300 (house committee report), in Article 1 of the bill, by adding the following appropriately numbered section and renumbering subsequent sections of that article accordingly:

SECTION 1.___. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.622 to read as follows:

Sec. 201.622. EVALUATION FOR TOLLING NOT REQUIRED. The commission may not require that each highway or other mobility project that is proposed, in development, or under construction be evaluated for tolling.

ADOPTED

MAY 07 2009

Robert Haney

Chief Clerk

House of Representatives

233

9.126.724 JMM

811623

ENGROSSED RIDER NO. 21

ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 26 BY: T. King
Alonzo

Amend C.S.H.B. No. 300 (House committee printing) in ARTICLE 1 of the bill by adding the following SECTION, appropriately numbered, and renumbering subsequent SECTIONS of that article accordingly:

SECTION ____. Section 201.903, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) To the extent allowed by federal law, each department sign on Interstate Highway 35 that identifies an intersection of that highway and U.S. Highway 57 and includes the words "Eagle Pass" must also contain the words "Crystal City."

HOUSE OF REPRESENTATIVES
09 MAY -6 PM 8:57

81R31857 JD-F

234

ENGROSSED RIDER NO. 22



09 MAY -6 PM 9:22

HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. 27 BY: Robert R. Haney

Amend C.S.H.B. 300 (House committee printing) by adding the following appropriately numbered SECTION to ARTICLE 1 of the bill and renumbering subsequent SECTIONS of that article accordingly:

SECTION 1.___. Sections 201.909(c) and (d), Transportation Code, are amended to read as follows:

(c) A sign designed and posted under this section shall include:

(1) the phrase:

(A) "Please Don't Drink and Drive"; or

(B) "Drive Safely";

(2) the phrase "In Memory Of" and the name of the victim in accordance with the commission rule in whose memory the sign is placed; and

(3) the date of the accident that resulted in the victim's death.

(d) A person may request that a sign be posted under this section by:

(1) making an application to the department on a form prescribed by the department; [~~and~~]

(2) submitting a fee to the department in an amount determined by the department to help defray the costs of posting the memorial sign; and

(3) selecting a phrase described by Subsection (c)(1) for the sign.

ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

811647

ENGROSSED RIDER NO. 23

09 MAY -6 PM 9:34

HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. 28 BY: Joe Pickett

Amend C.S.H.B. No. 300 (house committee printing) in ARTICLE 1 of the bill by adding the following SECTION to that article, appropriately numbered, and renumbering subsequent SECTIONS of that article accordingly:

SECTION 1.__. Section 202.021, Transportation Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) The commission shall make the strongest effort to dispose of property that has ceased to serve the functions of the department.

(a-1) The commission shall annually [~~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

(2) as determined by the commission, is no longer needed for a state highway purpose.

(a-2) In determining whether an interest in real property has ceased to serve the functions of the department, the commission shall take into consideration the reasonable projected use of the property during the following 10 years.

ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

ENGROSSED RIDER NO. 24



09 MAY -5 AM 9:27

HOUSE OF REPRESENTATIVES

ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

AS Amended

FLOOR AMENDMENT NO. 29 BY: Robert R. Haney

Amend C.S.H.B. No. 300 (house committee report) by adding the following appropriately numbered SECTION to Article 1 of the bill and renumbering subsequent SECTIONS of that article as appropriate:

SECTION _____. Subchapter B, Chapter 202, Transportation Code, is amended by adding Section 202.0215 to read as follows:

Sec. 202.0215. OFFER OF CERTAIN REAL PROPERTY TO NONPROFIT CORPORATION. (a) In this section, "nonprofit corporation" means a corporation governed as a nonprofit corporation under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) or under Chapter 22, Business Organizations Code.

(b) The department as part of the acquisition of real property for right-of-way purposes may take title to unusable remainder real property not to be used for right-of-way purposes.

(c) Notwithstanding Section 202.021, the department shall offer the real property described by Subsection (b) to a nonprofit corporation designated by the municipality in which the real property is located or, if the real property is not located in a municipality, by the county in which the real property is located, without cost or expense to the designated nonprofit corporation.

(d) Property acquired under this section by a nonprofit corporation or by another entity from a nonprofit corporation that acquired the property under this section must be used for the public purpose of development and diversification of the state economy.

ENGROSSED RIDER NO. 25

811743

FLOOR AMENDMENT NO. 30 BY: Pickett

#29

Amend the Alonzo amendment to C.S.H.B 300 as follows:

On page 1, strike lines 15 and 16 and substitute "(c) Notwithstanding Section 202.021 and to the extent permitted by law, the department shall consider offering the real property described by Subsection (b) to a nonprofit".

ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

~~#92~~

238

~~474~~

ENGROSSED RIDER NO. 26



09 MAY -6 PM 9:33

HOUSE OF REPRESENTATIVES

ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 31

Amend C.S.H.B. No. 300 (House committee printing) by adding the following appropriately numbered SECTION to Article 1 of the bill and renumbering subsequent SECTIONS of that article as appropriate:

SECTION ____. Section 203.031, Transportation Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) In the exercise of its authority to manage access to or from a controlled access highway under Subsection (a)(2) or (4), the commission by rule shall:

(1) require that a decision by a department district office denying a request for access to a specific location on a controlled access highway be in writing and include the reasons for the denial;

(2) provide procedures for appealing a denial under Subdivision (1), including procedures that:

(A) allow the applicant to appeal the denial to the department's design division before the 31st day after the date written notice of the denial is given to the applicant;

(B) provide that if an appeal under Paragraph (A) is not decided before the 91st day after the date the appeal was filed, the access applied for must be granted; and

(C) allow the applicant to appeal the decision of the design division to the director, and if the decision is affirmed, to a board of variance appointed by the director and composed of at least three persons who may not be below the level of department division director, office director, or district engineer, and who were not involved in the original decision to deny access;

(3) provide that properly platted access points to or

from a controlled access highway that are located on undeveloped property are subject to the access management standards in effect at the time the points were platted regardless of when the initial request for access was submitted to the department, but only if:

(A) development of the property begins and the request for access at the platted locations is submitted to the department before the fifth anniversary of the date the plat was recorded; and

(B) the design of the highway facility in the vicinity of the platted access points did not materially change after the date the plat was recorded so as to significantly impact traffic patterns to the extent that the platted access points present a threat to public safety;

(4) require that:

(A) owners of land adjacent to a proposed highway construction project be provided written notice of the project at least 60 days before the date construction begins if the project will permanently alter permitted access to or from a controlled access highway at the owners' existing locations; and

(B) the access described by Paragraph (A) be reinstated to the most practicable extent possible after due consideration of the impact on highway safety, mobility, and efficient operation of any changed traffic patterns resulting from the construction;

(5) adopt criteria for determining when a variance to access management standards may be granted, including criteria that, in addition to highway safety, mobility, and efficient operation concerns, takes into consideration any of the following consequences resulting from denial of the owner's request for access to a specific location on a controlled access highway that may impact a property owner:

(A) denial of reasonable access to the property; and

(B) undue hardship on a business located on the property; and

(6) clarify that the remodeling or demolition and rebuilding of a business does not cause new access management standards to apply unless the department makes an affirmative finding in writing that the remodeled or rebuilt business will significantly impact traffic patterns to the extent that the current access location presents a threat to public safety.



ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

ENGROSSED RIDER NO. 27

FLOOR AMENDMENT NO. 32 BY: _____

Amend C.S.H.B. No. 300 (house committee printing) by adding the following appropriately numbered SECTION to Article 1 of the bill and renumbering the remaining SECTIONS of that article accordingly:

SECTION 1.__. Subchapter A, Chapter 222, Transportation Code, is amended by adding Section 222.004 to read as follows:

Sec. 222.004. AUTHORIZATION TO PROVIDE ASSISTANCE TO EXPEDITE ENVIRONMENTAL REVIEW. (a) The department, a county, a regional tollway authority operating under Chapter 366, or a regional mobility authority operating under Chapter 370 may enter into an agreement to provide funds to a state or federal agency to expedite the agency's performance of its duties related to the environmental review process for transportation projects:

(1) of the department;

(2) listed in a metropolitan planning organization's long-range transportation plan under 23 U.S.C. Section 134; or

(3) of a county, a regional tollway authority operating under Chapter 366, or a regional mobility authority operating under Chapter 370.

(b) Except as provided by Subsection (c), an agreement entered into under this section:

(1) may specify transportation projects the applicable entity considers to be priorities for review; and

(2) must require the agency receiving money to complete the environmental review in less time than is customary for the completion of environmental review by that agency.

(c) The department may enter into a separate agreement for a transportation project that the department determines has

regional importance.

(d) An agreement entered into under this section does not diminish or modify the rights of the public regarding review and comment on transportation projects.

(e) An entity entering into an agreement under this section shall make the agreement available on the entity's Internet website.



ADOPTED

MAY 07 2009

811617

ENGROSSED RIDER NO. 28

FLOOR AMENDMENT NO. 33 09 MAY -6 Robert Haney Chief Clerk House of Representatives BY: [signature]

HOUSE OF REPRESENTATIVES

Amend C.S.H.B. 300 in Article I of the bill by inserting the following appropriately numbered SECTION to read as follows and renumbering subsequent SECTIONS in the Article accordingly:

SECTION __. (a) Chapter 222, Transportation Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. ROAD USER FEE PILOT PROGRAM

Sec. 222.151. DEFINITIONS. In this subchapter:

(1) "Diesel fuel" has the meaning assigned by Section 162.001, Tax Code.

(2) "Gasoline" has the meaning assigned by Section 162.001, Tax Code.

(3) "Program" means a road user fee pilot program established under this subchapter.

Sec. 222.152. PROGRAM ESTABLISHED. (a) Except as provided by Subsection (b), the department by rule shall establish a pilot program in at least one county that is part of a regional mobility authority established or operating under Chapter 370 to study the feasibility of assessing a road user fee that is based on the number of miles traveled in this state by a motor vehicle.

(b) The department may not establish the program in a county without the approval of the commissioners court of that county.

Sec. 222.153. AMOUNT OF ROAD USER FEE. (a) The department by rule shall set the amount of the road user fee on a per mile basis.

(b) In prescribing the amount of the fee, the department shall determine the average amount of taxes imposed under Chapter 162, Tax Code, per mile on gasoline or diesel fuel used

to propel an average motor vehicle over the public roadways of this state.

(c) The department shall set the fee in an amount equal to the amount determined under Subsection (b).

(d) The department shall allow a person who participates in the program a credit against the fee imposed for use of a motor vehicle equal to the amount of any taxes paid under Chapter 162, Tax Code, for gasoline or diesel fuel used in the vehicle during the period on which the amount of the fee paid is based.

Sec. 222.154. DEPOSIT OF NET REVENUE. The department shall deposit the net revenue from the fee imposed under this subchapter to the credit of the state highway fund.

Sec. 222.155. ELIGIBILITY. In establishing the pilot program, the department shall consult with the regional mobility authority of which the county is a part to develop criteria for voluntary program participation. The criteria must include requirements that a person must:

(1) reside in a county that is participating in the program;

(2) possess a valid driver's license issued to that person by this state;

(3) own a motor vehicle that is registered in this state; and

(4) agree to rules adopted by the department.

Sec. 222.156. CONTRACTS. The department may contract with the regional mobility authority of which the county is a part or the Texas Transportation Institute, or both, to implement or administer all or any part of the program.

Sec. 222.157. PROMOTION OF PROGRAM. Notwithstanding Chapter 2113, Government Code, the department or an entity with

which the department contracts under Section 222.156 may promote the program by appropriate means, including advertising or marketing as the department or the entity determines appropriate.

Sec. 222.158. REPORT. Not later than January 31, 2012, the department shall submit to the legislature a report that includes recommendations regarding:

(1) the feasibility of assessing a road user fee that is based on the number of miles traveled in this state by a motor vehicle; and

(2) legislation to implement a road user fee in this state.

Sec. 222.159. EXPIRATION. This subchapter expires September 1, 2013.

(b) Not later than December 31, 2010, the Texas Department of Transportation shall establish a pilot program as required by Section 222.152, Transportation Code, as added by this section.

ENGROSSED RIDER NO. 29

ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

09 MAY -6 PM 8:36

HOUSE OF REPRESENTATIVES

811805

FLOOR AMENDMENT NO. 36 BY:

Amend C.S.H.B. No. 300 (House committee printing) by adding the following appropriately numbered SECTION to Article 1 of the bill and renumbering subsequent SECTIONS of that article as appropriate:

SECTION ____. Section 228.057(e), Transportation Code, is amended to read as follows:

(e) Electronic toll collection customer account information, including contact and payment information and trip data, is confidential and not subject to disclosure under Chapter 552, Government Code, and may not be sold to a third party.

P. 110

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ENGROSSED RIDER NO. 30

09 MAY -6 PM 9:31

FLOOR AMENDMENT NO. 38 HOUSE OF REPRESENTATIVES BY: David Crawford

Amend C.S.H.B. No. 300 (house committee printing), on page 39, line 25, by striking "and actual".

ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

248

9.126.702 JAM

ADOPTED As Amended
MAY 07 2009
Chief Clerk
House of Representatives

ENGROSSED RIDER NO. 31

09 MAY -6 PM 9:21
HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. 39 BY: _____

Amend C.S.H.B. No. 300 (house committee printing) by striking SECTION 2.10 of the bill (page 53, line 10 through page 54, line 22) and substituting the following:

SECTION 2.10. Subchapter B, Chapter 223, Transportation Code, is amended by adding Section 223.0411 to read as follows:

Sec. 223.0411. REPORT. (a) Not later than December 31, 2009, the comptroller shall submit a report to the governor and the Legislative Budget Board as provided by this section. In developing the report, the comptroller shall collaborate with:

(1) the department;

(2) the Texas Board of Professional Engineers;

(3) a statewide organization that represents general contractors; and

(4) a statewide organization that represents engineering companies.

(b) The report must include:

(1) the number of licensed professional engineers and graduate engineers employed by the department in each of the previous five state fiscal years aggregated by work function and by strategy;

(2) the number of department employees associated with the planning, design, and management of department construction projects in each of the previous five state fiscal years;

(3) the number of licensed professional engineers, graduate engineers, and total staffing associated with the planning, design, and management of construction projects for major public works in this state, other than department projects;

(4) the measures used by private sector providers of engineering and project delivery services to evaluate overall

staffing and productivity;

(5) the dollar amount of highway and bridge projects awarded by the department in each of the previous five state fiscal years, including the percentage of those projects for which planning, design, and management activities were conducted by:

(A) department personnel;

(B) private sector personnel; and

(C) both department personnel and private sector personnel;

(6) information regarding the type and complexity of highway and bridge projects that are typically planned, designed, and managed by:

(A) department personnel;

(B) private sector personnel; and

(C) both department personnel and private sector personnel;

(7) the cost, including all direct and indirect costs, for all planning, design, and management activities performed by department personnel, private sector personnel, and both department personnel and private sector personnel aggregated by type of project per $100 million of highway and bridge projects awarded by the department in each of the previous five state fiscal years;

(8) the total cost of the department's planning, design, and management activities as a percentage of the department's construction program compared to the cost that other public entities incur for comprehensive engineering and project delivery services for large-scale construction projects;

(9) recommendations regarding engineering management practices used by other public entities that may improve the efficiency of the department's project delivery system; and

(10) a recommended plan for staffing and usage of department and private sector personnel in the planning, design, and management of department highway and bridge projects for the next 10-year period based on projected funding for the department.

(c) The analysis required by Subsection (b)(7) shall be conducted by an independent contract cost accounting firm that is knowledgeable of governmental and private sector accounting practices. The firm shall apply the same rules for the allocation of indirect costs, employee benefits, and other practices for all projects analyzed.

(d) The department may not hire a new employee to fill a vacancy in a position paid out of funds appropriated to the department for the planning, design, and management of transportation projects in the General Appropriations Act (Strategy A.1.1., or its successor) until:

(1) the comptroller submits the report required by this section; and

(2) the Legislative Budget Board approves the recommendations contained in the report.

(e) This section expires September 1, 2011.



ADOPTED

MAY 0 7 2009

Robert Haney
Chief Clerk
House of Representatives

811793

ENGROSSED RIDER NO. 32

FLOOR AMENDMENT NO. 40 BY: Pickett

Amend Amendment No. 39 by Darby (page 153 of the pre-filed amendment packet) as follows:

(1) Strike page 1 of the amendment, line 16, through page 3 of the amendment, line 4, and substitute the following:

(b) The report must include:

(1) the number of licensed professional engineers and graduate engineers employed by the department in each of the previous five state fiscal years aggregated by work function and by strategy;

(2) the number of department employees associated with the planning, design, and management of department construction projects in each of the previous five state fiscal years;

(3) the dollar amount of highway and bridge projects awarded by the department in each of the previous five state fiscal years, including the percentage of those projects for which planning, design, and management activities were conducted by:

(A) department personnel;

(B) private sector personnel; and

(C) both department personnel and private sector personnel;

(4) the cost, including all direct and indirect costs, for all planning, design, and management activities performed by department personnel, private sector personnel, and both department personnel and private sector personnel aggregated by type of project per $100 million of highway and bridge projects awarded by the department in each of the previous five state fiscal years;

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9.127.492 ACP

638

(5) an analysis of the dollar volume impact to the department's highway and bridge construction and maintenance program per $100 million of highway and bridge projects awarded for each one percent increase in production by consultants offset by a reduction to production by department personnel, considering cost to produce as developed in Subdivision (4);

(6) a recommended plan for staffing and usage of department and private sector personnel in the planning, design, and management of department highway and bridge projects for the next 10-year period based on projected funding for the department.

(7) an attrition plan to reach recommended department staffing levels described by Subsection (b)(6) not later than January 1, 2013, if applicable;

(8) a detailed description for how the report will be incorporated in the department's ongoing restructuring effort.

(2) On page 3 of the amendment, line 5, strike "Subsection (b)(7)" and substitute "Subsection (b)(4)".

(4) On page 3 of the amendment, strike line 20 and substitute the following:

(e) Not later than April 1, 2010, the department shall implement the recommended plan for staffing described by Subsection (b)(6), subject to approval by the Legislative Budget Board under Subsection (d).

(f) This section expires September 1, 2011.

ADOPTED
MAY 07 2009
Robert Haney
Chief Clerk
House of Representatives

As Amended

ENGROSSED RIDER NO. 33

FLOOR AMENDMENT NO. 42 BY: Ken Paxton

Amend C.S.H.B. No. 300 (house committee printing) as follows:

(1) On page 62, between lines 22 and 23, insert the following:

(d) A metropolitan planning organization may not engage the services of a person who is required to register with the Texas Ethics Commission under Chapter 305, Government Code.

(2) Add the following appropriately numbered ARTICLE to the bill and renumber the remaining ARTICLES accordingly:

ARTICLE ___. REGIONAL MOBILITY AUTHORITIES

SECTION ___.01. Subchapter F, Chapter 370, Transportation Code, is amended by adding Section 370.2524 to read as follows:

Sec. 370.2524. CERTAIN EMPLOYMENT PROHIBITED. A regional mobility authority may not engage the services of a person who is required to register with the Texas Ethics Commission under Chapter 305, Government Code.

ENGROSSED RIDER NO. 4

811753

FLOOR AMENDMENT NO. 43 BY: Pickett

Amend Floor Amendment No. 42 to C.S.H.B. No. 300 by Paxton as follows:

(1) On page 1, line 2, strike "(1)".

(2) On page 1, line 4, between "organization" and "may", insert ", for the purpose of influencing legislation,".

(2) Strike page 1, lines 7 through 15.

ADOPTED

MAY 07 2009

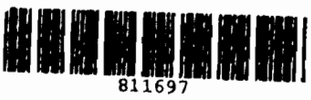
Chief Clerk
House of Representatives

p.384
712

255

9.127.293 JD

ENGROSSED RIDER NO. 35



811697

(Ken Paxton)

FLOOR AMENDMENT NO. 44 BY: Ken Paxton

Amend H.B. 300 (House Committee Report) as follows:

On page 65, line 6, strike "annual" and insert "quarterly"

ADOPTED

MAY 07 2009

Robert Haney

Chief Clerk
House of Representatives

ENGROSSED RIDER NO. 36 ADOPTED AS Amended

MAY 07 2009

FLOOR AMENDMENT NO. 45 Robert Haney Chief Clerk House of Representatives BY: Donna Howard

Amend C.S.H.B. No. 300 (house committee report) by adding the following appropriately numbered SECTION to ARTICLE 2 of the bill and renumbering subsequent SECTIONS of that article accordingly:

SECTION 2.___. Subchapter D, Chapter 201, Transportation Code, is amended by adding Section 201.214 to read as follows:

Sec. 201.214. ENVIRONMENTAL CERTIFICATION. (a) The department shall establish a process to certify environmental specialists in the department, including specialists for matters regarding compliance with state and federal regulation of stormwater runoff and control.

(b) The certification process must allow a person who has completed the process to perform analyses and reviews of, and to approve or disapprove, environmental reports and documents.

(c) The certification process must include minimum standards of training, as determined by the department, including mandatory annual continuing education standards for a certified person to be eligible for annual re-certification.

ENGROSSED RIDER NO. 37



FLOOR AMENDMENT NO. 46 BY: Donna Howard

Amend Floor Amendment No. 45 by Howard to C.S.H.B. NO. 300 on page 1, line 8, between "certify" and "environmental", by inserting "district".



9.127.128 JJ

ENGROSSED RIDER NO. 38



FLOOR AMENDMENT NO. 47 BY: Pickett

#45

Amend the Howard amendment to C.S.H.B. 300, relating to environmental certification, as follows:

(1) On page 1, lines 12-14, strike Subsection (b).

(2) On page 1, line 15, strike "(c)" and substitute "(b)".

ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

259

667
p. 248

ENGROSSED RIDER NO. 39

811775

Amendment to Amendment

Amendment 48 By: Calbgari

45 to HB 300

Amend the Howard floor amendment (page 248) by adding a new subsection (d) to read as follows:

(d) A person licensed under Chapter 1001, Occupations Code shall not be required to provide or hold any additional certification, other than a license issued under that chapter, to seal a plan, specification, analysis, or report under this program.

ADOPTED
MAY 07 2009
Robert Haney
Chief Clerk
House of Representatives

811630

ADOPTED

MAY 07 2009

as amended

09 MAY -6 PM 9:08

HOUSE OF REPRESENTATIVES

Robert Haney
Chief Clerk
House of Representatives

ENGROSSED RIDER NO. 40

FLOOR AMENDMENT NO. 50 BY: _____

Amend C.S.H.B. No. 300 (House Committee Report) by adding the following appropriately numbered SECTION to ARTICLE 2 of the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION 2.___. Subchapter B, Chapter 224, Transportation Code, is amended by adding Section 224.034 to read as follows:

Sec. 224.034. AGGREGATE RESOURCE AVAILABILITY ASSESSMENT. (a) Any transportation planning conducted under this chapter must include an aggregate resource availability assessment conducted by the department in coordination and consultation with the Bureau of Economic Geology of The University of Texas at Austin.

(b) An aggregate resource availability assessment conducted under Subsection (a) must include:

(1) an assessment of the known or inferred quantity, quality, and extent of aggregate deposits that may be available as raw material for projects included in the transportation planning; and

(2) with regard to the aggregate resources identified in the assessment in Subdivision (1):

(A) the amount of the aggregate resources for which state and federal permits have been issued that are necessary for removal of the aggregate resources; and

(B) a forecast of market demand for the aggregate resources.

ENGROSSED RIDER NO. 1

811786

ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 51 BY:

*50

Amend the Isett amendment to C.S.H.B. No. 300 (Prefiled Amendment Packet, page 138) as follows:

(1) On page 1, line 2, strike "SECTION" and substitute "SECTIONS".

(2) Add the following to the end of the amendment:

SECTION 2.___. (a) Subchapter I, Chapter 201, Transportation Code, is amended by adding Section 201.712 to read as follows:

Sec. 201.712. REQUIREMENTS FOR AGGREGATE IN HIGHWAY IMPROVEMENT PROJECTS. (a) In this section, "glass cullet" means recycled, crushed glass suitable as a replacement for gravel aggregate in roadway construction.

(b) Each year the department shall use, or enter into a contract to use, at least 10,000 cubic yards per year of glass cullet gathered in this state as a replacement for aggregate material.

(b) Section 201.712, Transportation Code, as added by this section, applies only to a year that begins on or after January 1, 2010.

T

262

9.127.197 MTB

811625

ENGROSSED RIDER NO. 42

FLOOR AMENDMENT NO. 52 BY: Joe Pickett

Amend C.S.H.B. No. 300 in ARTICLE 2 of the bill by adding the following SECTION to that ARTICLE and renumbering subsequent SECTIONS accordingly:

SECTION 2.__. Section 364.004(c), Transportation Code, is repealed.

ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives



ADOPTED as amended

MAY 07 2009

Chief Clerk
House of Representatives

ENGROSSED RIDER NO. 43

FLOOR AMENDMENT NO. 54 BY:

Amend C.S.H.B. No. 300 (House committee printing), in ARTICLE 2 of the bill, by adding the following SECTIONS, appropriately numbered, and renumbering subsequent SECTIONS of that article accordingly:

SECTION 2.__. Subchapter C, Chapter 371, Transportation Code, as added by Chapter 264 (S.B. 792), Acts of the 80th Legislature, Regular Session, 2007, is amended by adding Section 371.105 to read as follows:

Sec. 371.105. PROHIBITION AGAINST CONCESSION PAYMENTS; REVENUE SHARING. (a) In this section, "concession payment" means an up-front payment made by a private participant in return for which the private participant is granted a right to operate and receive revenue from a toll project.

(b) A toll project entity is prohibited from accepting a concession payment as part of a comprehensive development agreement.

(c) A toll project entity may enter into a revenue sharing agreement with a private participant as part of a comprehensive development agreement.

(d) This section does not apply to:

(1) the State Highway 161 project from State Highway 183 to Interstate Highway 20 in Dallas County;

(2) the United States Highway 281 project in Bexar County from Loop 1604 to the Comal County line;

(3) the Loop 49 project from Interstate Highway 20 to State Highway 110 in Smith County;

(4) the DFW Connector project in Tarrant and Dallas Counties (State Highway 114 from State Highway 114L Business to east of International Parkway and State Highway 121 from north

of Farm-to-Market Road 2499 to south of State Highway 360);

(5) the North Tarrant Express project in Tarrant and Dallas Counties (Interstate Highway 820 and State Highway 121/State Highway 183 from Interstate Highway 35W to State Highway 161, Interstate Highway 820 east from State Highway 121/State Highway 183 to Randol Mill Road, and Interstate Highway 35W from Interstate Highway 30 to State Highway 170);

(6) the United States Highway 290 project from east of United States Highway 183 to east of Farm-to-Market Road 973 in Travis County;

(7) the State Highway 99 (Grand Parkway) project;

(8) the Interstate Highway 635 managed lanes project in Dallas County (Interstate Highway 635 from east of Luna Road to Greenville Avenue and Interstate Highway 35E from south of the Loop 12/Interstate Highway 35E split to south of Valwood Parkway);

(9) Phase 4 extension of the Dallas North Tollway in Collin and Denton Counties from United States Highway 380 to the Grayson County line to be developed by North Texas Tollway Authority;

(10) the Southwest Parkway (State Highway 121) in Tarrant County from south of Dirks Road/Altamesa Boulevard to Interstate Highway 30; or

(11) a comprehensive development agreement in connection with a project associated with any portion of the Loop 9 project that is located in a nonattainment air quality area as designated by the United States Environmental Protection Agency that includes two adjacent counties that each have a population of one million or more.

SECTION 2.___. Subsection (a), Section 371.151, Transportation Code, as added by Chapter 264 (S.B. 792), Acts of

the 80th Legislature, Regular Session, 2007, is amended to read as follows:

(a) Before a toll project entity enters into a contract for the construction of a toll project, the entity shall publish in the manner provided by Section 371.152 information regarding:

(1) project financing, including:

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

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

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

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

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

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

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

(6) the initial toll rates, the methodology for increasing toll rates, and the projected toll rates at the end of the term of the contract; and

(7) the terms of any revenue sharing agreement [~~the projected total amount of concession payments~~].

SECTION 2.__. (a) The changes in law made by Section

371.151, Transportation Code, as amended by this Article, and Section 371.105, Transportation Code, as added by this Article, apply only to a comprehensive development agreement entered into on or after the effective date of this Act.

(b) A comprehensive development agreement entered into before the effective date of this Act is governed by the law in effect on the day the agreement was finalized, and the former law is continued in effect for that purpose.

ENGROSSED RIDER NO. 44

811813

ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

AMENDMENT to AMENDMENT NO. 55 BY: Stephen J. Frost

#54

Amend the proposed amendment to C.S.H.B. 300 by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 371.101, Transportation Code, as amended by this Act, does not apply to a comprehensive development agreement for a project on the IH 69 corridor in Bowie County.

(b) A project described by this section is governed by Section 371.101, Transportation Code, as that section existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

~~319~~
page ~~317~~

I

ENGROSSED RIDER NO. 45

811823

FLOOR AMENDMENT NO. 99 BY: Ken Paxton

Amend Amendment No. 54 to C.S.H.B. No. 300 by Smith (page 319 of the pre-filed amendment packet) as follows:

(1) On page 2 of the amendment, strike lines 17 through 20, and substitute the following:

(9) the Phase 3 and 4 extensions of the Dallas North Tollway in Collin and Denton Counties from State Highway 121 to the Grayson County line, and the planned future extension into Grayson County, regardless of which local toll project entity develops the extension into Grayson County;

(2) On page 2 of the amendment, line 23, strike "or".

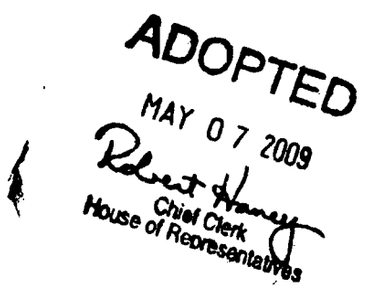
(3) On page 2 of the amendment, line 29, strike the underlined period and substitute ";".

(4) On page 2 of the amendment, between lines 29 and 30, insert the following:

(12) the Dallas North Tollway in Collin County from FM 428 to the Grayson County Line;

(13) the Lake Lavon Bridge in Collin County; and

(14) IH-35 West and associated passenger rail in Tarrant and Denton Counties.



9.127.704 ACP

ENGROSSED RIDER NO. 46



ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 176

BY: Isett

Amend Floor Amendment No. 54 to C.S.H.B. No. 300 by Wayne Smith (page 319, prefiled amendment packet), on page 4, line 9, by adding the following:

SECTION ____. Section 371.101, Transportation Code, as added by Chapter 264 (S.B. No. 792), Acts of the 80th Legislature, Regular Session, 2007, does not apply to a comprehensive development agreement for:

(1) a project located south of Refugio County on the ISTEA High Priority Corridor identified in Sections 1105(c)(18) and (20) of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. No. 102-240), as amended by Section 1211 of the Transportation Equity Act for the 21st Century (Pub. L. No. 105-178, as amended by Title IX, Pub. L. No. 105-206), if the project remains in a highway corridor designated by those laws; or

(2) a project associated with a project under Subdivision (1), including:

(A) the Corpus Christi Southside Mobility Corridor;

(B) the State Highway 358 managed lanes project and the State Highway 286 managed lanes project in Nueces County; and

(C) the State Highway 550 spur project and the West Loop project in Cameron County.

9.128.136 JD

ENGROSSED RIDER NO. 47

811846

FLOOR AMENDMENT NO. 47 BY: _____

Amend Floor Amendment No. 54 to C.S.H.B. No. 300 by Wayne Smith (page 319, prefiled amendment packet), on page 1 of the amendment, by striking lines 23 and 24 and renumbering subsequent added subdivisions accordingly.

ADOPTED

MAY 08 2009

Chief Clerk
House of Representatives

271

9.128.108 JD

ENGROSSED RIDER NO. 48



FLOOR AMENDMENT NO. 56 BY: _____

Amend C.S.H.B. No. 300 (House committee printing) on page 73, line 5, by striking "commissioner" and substituting "commission".

ADOPTED
MAY 07 2009
Chief Clerk
House of Representatives

09 MAY -5 PM 6:12
HOUSE OF REPRESENTATIVES

p.61

272

81R30886 JD-F

ENGROSSED RIDER NO. 49

811515

ADOPTED As Amended

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

09 MAY -5 PM 3:12

HOUSE OF REPRESENTATIVES

Miklos

FLOOR AMENDMENT NO. 57 BY: _____

Amend C.S.H.B. No. 300 by striking SECTION 3.04 of the bill (house committee printing page 74, line 3, through page 75, line 11) and substituting:

SECTION 3.04. Section 228.201(a), Transportation Code, is amended to read as follows:

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

(1) [~~the commission by order designated the highway or segment as a toll project before the contract to construct the highway or segment was awarded;~~]

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

(2) [~~(3) the project was designated as a toll project in a plan or program of a metropolitan planning organization on or before September 1, 2005;~~]

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

(3) [~~(5) a facility is constructed adjacent to the highway or segment so that the number of nontolled lanes on the converted highway or segment and the adjacent facility together is greater than or equal to the number in existence on the converted highway or segment before the conversion;~~]

[~~(6)~~] subject to Subsection (b), the highway or segment was open to traffic as a high-occupancy vehicle lane on May

1, 2005[~~, or~~

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

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

[~~(B) conducting the hearing required by Section 228.203; and~~

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

ENGROSSED RIDER NO. 50





FLOOR AMENDMENT NO. 100 BY: Phillips

Amend Floor Amendment No. 57 to C.S.H.B. No. 300 (page 20, prefiled amendment packet) by Leibowitz as follows:

(1) On page 1, strike lines 16 through 18 and substitute the following:

(2) [~~(3)~~] the project was designated as a toll project in a plan or program of a metropolitan planning organization on or before September 1, 2005, which included the planned future extension of the Dallas North Tollway into Grayson County;

(2) On page 1, line 19, strike "[~~(4)~~]" and substitute "(3) [~~(4)~~]".

(3) On page 1, line 23, strike "(3)" and substitute "(4)" [~~(4)~~]"

(3) On page 1, line 28, strike "[~~(6)~~]" and substitute and substitute "(5) [~~(6)~~]".

ENGROSSED RIDER NO. 51



FLOOR AMENDMENT NO. 59 BY: _____

Amend C.S.H.B. No. 300 (house committee report) by striking page 77, line 2 and 3, and substituting:

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

(4) signed by the commissioner.

ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

09 MAY -6 PM 3:47
HOUSE OF REPRESENTATIVES

ENGROSSED RIDER NO. 52

811562

FLOOR AMENDMENT NO. 60 BY:

Amend C.S.H.B. No. 300 (House committee printing) on page 77, line 3, by striking "commissioner" and substituting "commission".

ADOPTED
MAY 07 2009
Chief Clerk
House of Representatives

09 MAY -6 PM 6:11
HOUSE OF REPRESENTATIVES

pg. 62

277

81R30882 JD-F

ENGROSSED RIDER NO. 3

ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 61 BY: _____

Amend C.S.H.B. No. 300 by inserting the following new SECTIONS, appropriately numbered, to ARTICLE 4 of the bill, and renumbering the subsequent SECTIONS of that ARTICLE accordingly:

SECTION 4.___. Subchapter A, Chapter 223, Transportation Code, is amended by adding Section 223.0043 to read as follows:

Sec. 223.0043. DISCLOSURE OF POLITICAL CONTRIBUTIONS AND LOBBYING EXPENDITURES. (a) In this section:

(1) "Lobbying expenditure" means an expenditure that is reportable under Chapter 305, Government Code.

(2) "Political committee" and "political contribution" have the meanings assigned by Section 251.001, Election Code.

(b) For purposes of this section, an individual has a substantial financial interest in a business entity if the individual:

(1) has a controlling interest in the business entity;

(2) owns more than 10 percent of the voting interest in the business entity;

(3) owns more than $25,000 of the fair market value of the business entity;

(4) has a direct or indirect participating interest by shares, stock, or otherwise, regardless of whether voting rights are included, in more than 10 percent of the profits, proceeds, or capital gains of the business entity;

(5) is a member of the board of directors or other governing board of the business entity; or

(6) serves as an elected officer of the business entity.

(c) Not later than the 30th day after the date a business

entity submits a bid under this subchapter, the entity shall disclose in writing to the director or the director's designee:

(1) each political contribution of $1,000 or more that is made to a candidate, officeholder, or political committee required to file reports under Chapter 254, Election Code, with the Texas Ethics Commission during the four years preceding the date of the bid by:

(A) the business entity;

(B) an individual who has a substantial financial interest in the business entity; or

(C) a political committee established or administered by the business entity or by an individual described by Paragraph (B); and

(2) each lobbying expenditure made during the four years preceding the date of the bid by or on behalf of the business entity.

(d) A business entity that has not made a political contribution or a lobbying expenditure that must be disclosed under Subsection (c) shall, within the time prescribed by that subsection, deliver to the director or the director's designee a written statement that the business entity has not made a political contribution or lobbying expenditure that must be disclosed.

(e) On receipt of information under Subsection (c) or (d), the department shall promptly publish the information on the department's Internet website.

(f) The commission may not consider a bid submitted by a business entity that does not comply with this section.

SECTION 4.___. Section 223.0043, Transportation Code, as added by this Act, applies only to a bid submitted for a contract as to which the initial notice under Section 223.002, Transportation Code, is published on or after September 1, 2009.

ENGROSSED RIDER NO. 54

ADOPTED

MAY 07 2009

Chief Clerk
House of Representatives



09 MAY -6 PM 8:07

HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. 63 BY: Rodriguez

Amend C.S.H.B. No. 300 (house committee report) in ARTICLE 4 of the bill by adding the following appropriately numbered SECTION to that article and renumbering subsequent SECTIONS of that article accordingly:

SECTION ___. Subchapter E, Chapter 223, Transportation Code, is amended by adding Section 223.214 to read as follows:

Sec. 223.214. ADVISORS, CONSULTANTS, AUDITORS, AND OTHER EXPERTS. (a) This section does not apply to a third party performing a market valuation for a toll project that is governed by Section 228.0111(f-3).

(b) A person may not serve as a consultant or an advisor, auditor, or other expert in connection with a comprehensive development agreement or other public-private partnership if the person or the person's affiliates have a financial interest in the comprehensive development agreement or public-private partnership.

ENGROSSED RIDER NO. 55



FLOOR AMENDMENT NO. 65 BY: Lewis

Amend C.S.H.B. No. 300 (house committee report) by adding the following appropriately numbered SECTION to Article 4 of the bill and renumbering subsequent SECTIONS of that article as appropriate:

SECTION 4.____. (a) Section 2262.003, Government Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding Section 2262.001 or 2262.002, this section applies to contracts of the Texas Department of Transportation that relate to highway construction or highway engineering.

(b) The change in law made by this section applies only to a contract by the Texas Department of Transportation for which the solicitation of bids or proposals or similar expressions of interest is published on or after September 1, 2009. A contract for which the solicitation of bids or proposals or similar expressions of interest was published before September 1, 2009, is governed by the law in effect on the date the Texas Department of Transportation first published the solicitation of bids or proposals or similar expressions of interest, and the former law is continued in effect for that purpose.

09 MAY -6 PM 3:12
HOUSE OF REPRESENTATIVES

ADOPTED
MAY 07 2009
Robert Haney
Chief Clerk
House of Representatives

811602

ENGROSSED RIDER NO. 56

FLOOR AMENDMENT NO. 67 BY:

Amend HB 300 (house committee printing) as follows:

Insert, on page 89, line 5, and renumber sections accordingly:

SECTION 6.04, Subchapter D, Chapter 391, Section 391.099, Transportation Code, is amended to read as follows:

(c) Except as provided by Subsection (f), the commission shall:

(1) regulate the content, composition, design, placement, erection and maintenance of tourist-oriented directional signs and supports on eligible highway rights-of-way and ensure signs are placed in designated areas no more than 90 days after the eligible facility signs a contract; ~~and~~

(2) in lieu of a tourist-oriented directional sign, the department shall erect General Service signs upon request of owners of recreational vehicle or camping areas;

(3) create rules as to the viable alternatives to the current tourist-oriented directional sign program pricing methodology of total traffic counts to include, but not limited to, actual visitor counts or cost plus maintenance fees of the ;and,

(4) adopts rules necessary to administer and enforce this section.

ADOPTED
MAY 07 2009
Robert Haney
Chief Clerk
House of Representatives

09 MAY -6 PM 2:29
HOUSE OF REPRESENTATIVES

1

282

ENGROSSED RIDER NO. 57



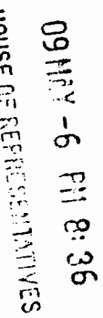
FLOOR AMENDMENT NO. 70 BY: _____

Amend C.S.H.B. No. 300 (house committee printing) by adding the following appropriately numbered SECTION to ARTICLE 4 of the bill and renumbering subsequent SECTIONS of that article accordingly:

SECTION ____. Subchapter E, Chapter 223, Transportation Code, is amended by adding Section 223.213 to read as follows:

Sec. 223.213. PROHIBITION AGAINST NONCOMPETITION PROVISIONS. Notwithstanding Section 371.103(b), the department may not enter into a comprehensive development agreement for a toll project, including a managed lane, that contains a provision that limits or prohibits the construction, reconstruction, expansion, rehabilitation, operation, or maintenance of a nontolled highway by the department or a provision that requires the department to reimburse a private entity for the loss of toll revenue attributable to the construction of a nontolled highway.





811588

FLOOR AMENDMENT NO. 71 ADOPTED MAY 07 2009 BY: ENGROSSED RIDER NO. 58

09 MAY 07 PM 5:15 Robert Haney Chief Clerk House of Representatives

Amend C.S.H.B. No. 3588, 81st Legislature, on Page 104, after line 24 and before line 25, by adding an appropriately numbered Section of the Bill to read as follows:

Chapter 451, Title 6, Subtitle K, Transportation Code, is amended by adding an appropriately lettered Subchapter and appropriately numbered Section references relating to the expansion of powers of a metropolitan rapid transit authority, to read as follows:

SUBCHAPTER [ ]. ADDITIONAL POWERS OF RAPID TRANSIT AUTHORITY

Sec. 451.901. DEFINITIONS. (a) In this subchapter:

(1) "Authority" means a rapid transit authority created under this chapter.

(2) "Board" means the governing body of the authority.

(3) "Comprehensive transportation system" means a transportation project or combination of transportation projects designated as a system by the board of an authority.

(4) "Transportation project" means

(A) the design, construction, extension, expansion, improvement, reconstruction, alteration, acquisition, financing, and maintenance of mass transit, light rail, commuter rail, intercity municipal rail, freight rail, fixed guideways, traffic management systems, bus ways, bus lanes, technologically advanced bus transit vehicles and systems, bus rapid transit vehicles and systems, passenger amenities, transit centers, stations, parking facilities and payment mechanisms, sidewalks, bicycle lanes, electronic transit-related information, fare collection and operating systems, high occupancy vehicle lanes, bridges, traffic signal prioritization and coordination systems, monitoring systems, tracks and rail line, switching and signaling equipment, operating equipment, depots, locomotives, rolling stock, maintenance facilities, other real and personal property associated with a rail operation and transit-oriented development, and other comprehensive advanced transportation facilities, equipment, operations, comprehensive transportation systems, and services, including planning, feasibility studies, operations, and professional and other services in connection with those facilities, equipment, operations, comprehensive transportation systems, and services; and

(B) the design, construction, extension, expansion, improvement, reconstruction, alteration, acquisition, financing, and maintenance of:

(i) streets, roads, highways, high occupancy vehicle lanes, toll lanes, turnpike projects, pedestrian or bicycle facilities, bridges, grade separations, parking facilities and payment mechanisms, and infrastructure designed to improve mobility;

(ii) traffic signal prioritization and street lighting;

(iii) monitoring systems;

(iv) other mobility enhancement facilities, equipment, systems, and services, including drainage improvements or drainage related measures reasonable and necessary for the effective use of the transportation facility being constructed or maintained;

(v) an intermodal hub, air quality improvement initiative, and public utility facility; and

(vi) a conveyance or acceptance of the exclusive rights to develop tolled infrastructure or other mobility-related assets, including concession fees.

(b) A word or phrase that is not defined in this chapter and subchapter but is defined in Chapter 370 has the meaning in this chapter and subchapter that is assigned by that chapter.

Sec. 451.902. LIBERAL CONSTRUCTION. This subchapter is to be liberally construed to carry out its purposes.

Sec. 451.903. EXPANDED MOBILITY POWERS AUTHORIZED. The board of an authority in a county where an advanced transportation district also exists may, by resolution, assume all of the rights, powers, duties, and privileges of a regional mobility authority under Chapter 370, Transportation Code.

Sec. 451.904. POWERS. (a) An authority assuming additional mobility powers under Section 451.903:

(1) has all the rights, duties, powers, and privileges granted under Chapter 370, Transportation Code.

(2) may plan, study, evaluate, design, finance, acquire, construct, maintain, repair, and operate a transportation project, individually or as one or more comprehensive transportation system.

(3) may exercise such rights, duties, powers, and privileges independently or in combination to effect the purposes of this subchapter. In the event of a conflict, the most liberal provision applies.

Sec. 451.905. GOVERNANCE. The composition of the board of an authority operating under this subchapter shall be governed by the provisions of this chapter, and not by any inconsistent provisions relating thereto under Chapter 370, Transportation Code.

811792

FLOOR AMENDMENT NO. 72 BY: _____

Amend Floor Amendment No. 71 by McClendon as follows:

(1) On page 2 of the amendment, between lines 11 and 12, insert the following:

Sec. 451.9015. NONAPPLICABILITY OF SUBCHAPTER. (a) This subchapter does not apply to an authority that is located in a county that is in the boundaries of a regional mobility authority.

(b) Subsection (a) does not apply if the regional mobility in which the authority is located is dissolved.

(2) On page 2 of the amendment, between lines 27 and 28, insert the following:

(b) Notwithstanding any provision of this subchapter to the contrary, an authority operating under this subchapter may not commit to a new toll project.

ADOPTED
MAY 07 2009
Robert Haney
Chief Clerk
House of Representatives

286

43

9.127.144 JD

811703

ENGROSSED RIDER NO. 60

09 MAY -6 PM 9:47
HOUSE OF REPRESENTATIVES

ADOPTED
MAY 07 2009
Robert Haney
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 73 BY: Philip

Amend C.S.H.B. No. 300 (house committee printing) as follows:

(1) Strike Subpart B, Part 2, in Article 8 of the bill (page 115, line 16, through page 116, line 21) and reletter subsequent subparts of Part 2 appropriately.

(2) Add the following appropriately numbered ARTICLE to the bill and renumber the remaining ARTICLES of the bill accordingly:

ARTICLE __. TOLL COLLECTION AND ENFORCEMENT

SECTION ___. Section 228.001, Transportation Code, is amended by adding Subdivisions (2-a) and (7) to read as follows:

(2-a) "Operate" and "operation" include the processing and collecting of tolls and the providing of related customer services.

(7) "Registered owner" means:

(A) an owner as defined by Section 502.001; or

(B) the owner of a vehicle as shown on the vehicle registration records of the Texas Department of Motor Vehicles or the analogous department or agency of another state or country.

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

(a) Except as provided by Subsection (e) or Section 228.0545, 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 shall pay the proper toll. The exemption from payment of a toll for an authorized emergency vehicle applies regardless of whether the vehicle is:

(1) responding to an emergency;

(2) displaying a flashing light; or

(3) marked as an emergency vehicle.

SECTION ___. Subchapter B, Chapter 228, Transportation

Code, is amended by adding Section 228.0545 to read as follows:

Sec. 228.0545. ALTERNATIVE TOLLING METHODS. (a) As an alternative to requiring payment of a toll at the time a vehicle is driven or towed through a toll collection facility, the department may use video billing or other tolling methods to permit the registered owner of the vehicle to pay the toll on a later date.

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

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

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

(1) the registered owner's address as shown in the vehicle registration records of the Texas Department of Motor Vehicles; or

(2) an alternate address provided by the owner or derived through other reliable means.

(e) On or before October 1 of each year, the department shall conduct a cost analysis to determine a policy on whether to mail a notice under Subsection (c) after each time a vehicle is driven or towed through a toll collection facility or only after a certain number of times a vehicle is driven or towed through a facility. The policy must ensure that the cost to the department of collecting tolls as provided by this section does not exceed the amount of the tolls and fees collected.

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

(a) In the event of nonpayment of the [~~proper~~] toll as required by Section 228.054 or 228.0545, 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.

(b) The department may impose and collect the administrative fee, so as to recover the cost of collecting the unpaid toll, not to exceed $100. The department 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 Texas Department of Motor Vehicles or an alternate address provided by the owner or derived through other reliable means. The notice of nonpayment shall be sent [~~department~~] by first class mail 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 Section 228.054 or 228.0545.

(d) It is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle is a lessor of the vehicle and not later than the 30th day after the date the notice of nonpayment is mailed provides to the department a copy of the rental, lease, or other contract document covering the vehicle on the date of the nonpayment under Section 228.054 or the date the vehicle was driven or towed through a toll collection facility that results in a notice issued under Section 228.0545, with the name and address of the lessee clearly legible. If the lessor provides the required information within the period prescribed, the department may send a notice of nonpayment to the lessee at the address shown on the contract document by first class mail before the 30th day

after the date of receipt of the required information from the lessor. The lessee of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. The lessee shall pay a separate toll and administrative fee for each event of nonpayment. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

(e) It is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle transferred ownership of the vehicle to another person before the event of nonpayment under Section 228.054 occurred or before the date the vehicle was driven or towed through a toll collection facility that results in a notice issued under Section 228.0545, submitted written notice of the transfer to the department in accordance with Section 520.023, and, before the 30th day after the date the notice of nonpayment is mailed, provides to the department the name and address of the person to whom the vehicle was transferred. If the former owner of the vehicle provides the required information within the period prescribed, the department may send a notice of nonpayment to the person to whom ownership of the vehicle was transferred at the address provided by the former owner by first class mail before the 30th day after the date of receipt of the required information from the former owner. The department may send all subsequent notices of nonpayment associated with the vehicle to the person to whom ownership of the vehicle was transferred at the address provided by the former owner or an alternate address provided by the subsequent owner or derived through other reliable means. The subsequent owner of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative fee within the time

specified by the notice of nonpayment commits an offense. The subsequent owner shall pay a separate toll and administrative fee for each event of nonpayment under Section 228.054 or 228.0545. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

(h) [~~In this section, "registered owner" means the owner of a vehicle as shown on the vehicle registration records of the department or the analogous department or agency of another state or country.~~

[~~(i)~~] The department may contract, in accordance with Section 2107.003, Government Code, with a person to collect the unpaid toll and administrative fee before referring the matter to a court with jurisdiction over the offense.

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

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

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

(2) a computer record of the Texas Department of Motor Vehicles [~~department~~] of the registered owner of the vehicle is prima facie evidence of its contents and that the defendant was the registered owner of the vehicle when the underlying event of nonpayment under Section 228.054 occurred or on the date the vehicle was driven or towed through a toll collection facility that results in a notice issued under Section 228.0545; and

(3) a copy of the rental, lease, or other contract document covering the vehicle on the date of the underlying event of nonpayment under Section 228.054 or on the date the vehicle was driven or towed through a toll collection facility that results in a notice issued under Section 228.0545 is prima facie evidence of its

contents and that the defendant was the lessee of the vehicle when the underlying event of nonpayment under Section 228.054 occurred or when the vehicle was driven or towed through a toll collection facility that results in a notice issued under Section 228.0545.

SECTION ____. Section 228.057, Transportation Code, is amended by adding Subsections (g) and (h) to read as follows:

(g) The department may, following closure of an electronic toll collection customer account and at the request of the account holder, refund the balance of funds in the account after making a deduction for any outstanding tolls and fees.

(h) The department may enter into an agreement with a governmental or private entity regarding the use of a transponder issued by the department and the corresponding electronic toll collection customer account to pay for parking services offered by the entity.

SECTION ____. Section 228.058(b), Transportation Code, is amended to read as follows:

(b) Automated enforcement technology approved by the department under Subsection (a) may be used only for the purpose of producing, depicting, photographing, or recording an image that depicts that portion of a vehicle necessary to establish the classification of vehicle and the proper toll to be charged, the license plate number, and the state or country of registration, including an image:

(1) of a license plate attached to the front or rear of a vehicle; and

(2) showing the vehicle dimensions, the presence of a trailer, and the number of axles.

ENGROSSED RIDER NO. 61

ADOPTED

MAY 07 2009

Chief Clerk
House of Representatives



FLOOR AMENDMENT NO. 74 BY:

Amend C.S.H.B. No. 300 (House committee printing) as follows:

(1) On page 193, line 13, strike "3(h) and (l)" and substitute "3(f), (h), and (l)".

(2) On page 193, between lines 14 and 15, insert the following:

(f) It is a ground for removal from the authority if a member:

(1) does not have at the time of taking office [~~appointment~~] the qualifications required by Subsection (b) or is disqualified under Subsection (i) or (k) of this section;

(2) does not maintain during service on the authority the qualifications required by Subsection (b) or becomes disqualified under Subsection (i) or (k) of this section;

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

(4) is absent from more than half of the regularly scheduled authority meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the authority.

COPY-6 PM 6:11
HOUSE OF REPRESENTATIVES

ADOPTED As Amended

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

09 MAY -6 PM 8:07

HOUSE OF REPRESENTATIVES

ENGROSSED RIDER NO. 62

FLOOR AMENDMENT NO. 75 By: Rob McCombs

Amend C.S.H.B. No. 300, Article IX, by adding a new Section 91.0042 to read as follows:

Sec. 91.0042. RAIL RELOCATION ADVISORY GROUP. (a) The rail relocation advisory group is created to advise the department on the implementation and administration of rail relocation and improvement planning and projects.

(b) The advisory group consists of stakeholders in the railroad industry, appointed by the chair of the Senate Committee on Transportation and Homeland Security and by the chair of the House Committee on Transportation. The chairs shall determine the number of members appropriate to accomplish the duties of the advisory group.

(c) The advisory group meets at the call of the chairs and shall advise the department on the rail relocation and improvement planning and projects, including strategies for:

(1) alleviating traffic congestion;

(2) improving passenger and freight mobility;

(3) reducing noise in residential areas; and

(4) mitigating adverse effects on the environment.

(d) The department shall provide administrative support, including staff, as necessary to assist the advisory group in accomplishing its duties.

(e) A member of the advisory group is not entitled to compensation for service on the committee but is entitled to reimbursement of travel expenses incurred by the member while conducting the business of the advisory group, as provided by the General Appropriations Act.



ADOPTED
MAY 07 2009
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 76 BY: Pickett

#75

Amend the McClendon amendment to C.S.H.B. 300, relating to a rail relocation advisory group by striking lines 3-10 and inserting the following and renumbering subsequent sections appropriately:

Sec. 201.979. RAIL RELOCATION ADVISORY GROUP. (a) A rail relocation advisory group shall be created to advise the department on the implementation and administration of the program.

(b) The advisory group consists of stakeholders in the railroad industry, consumer advocates, and members of the legislature.

(c) The group is composed of eight members as follows:

(1) four members appointed by the lieutenant governor and;

(2) four members appointed by the speaker of the house.

P986

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811678



ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

ENGROSSED RIDER NO. 64

FLOOR AMENDMENT NO. 77 BY: Guillen

Amend C.S.H.B. No. 300 (House committee printing) on page 198, line 14, by striking "2004" and substituting "2003".

ENGROSSED RIDER NO. 65

ADOPTED
MAY 07 2009
Robert Haney
Chief Clerk
House of Representatives

811514

09 MAY -6 PM 3:04
HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. 78 BY: _____

Amend C.S.H.B. No. 300 (House committee printing) by adding the following ARTICLE to the bill, appropriately numbered, and renumbering subsequent ARTICLES accordingly:

ARTICLE __. TRANS-TEXAS CORRIDOR

SECTION ____.01. Section 11.11(j), Tax Code, is amended to read as follows:

(j) For purposes of this section, any portion of a facility owned by the Texas Department of Transportation that is [~~part of the Trans-Texas Corridor, is~~] a rail facility or system[~~,~~] or is a highway in the state highway system, and that is licensed or leased to a private entity by that department under Chapter 91 or[~~,~~] 223, [~~or 227,~~] Transportation Code, is public property used for a public purpose if the rail facility or system, highway, or facility is operated by the private entity to provide transportation or utility services. Any part of a facility, rail facility or system, or state highway that is licensed or leased to a private entity for a commercial purpose is not exempt from taxation.

SECTION ____.02. Section 25.06(c), Tax Code, is amended to read as follows:

(c) This section does not apply to:

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

(2) a leasehold or other possessory interest granted by the Texas Department of Transportation in a facility owned by that department that is [~~part of the Trans-Texas Corridor, is~~] a

rail facility or system[~~,~~] or is a highway in the state highway system.

SECTION _____.03. Section 25.07(c), Tax Code, is amended to read as follows:

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

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

(2) a leasehold or other possessory interest granted by the Texas Department of Transportation in a facility owned by that department that is [~~part of the Trans-Texas Corridor, is~~] a rail facility or system[~~,~~] or is a highway in the state highway system.

SECTION _____.04. Sections 201.616(a) and (b), Transportation Code, are amended to read as follows:

(a) Not later than December 1 of each year, the department shall submit a report to the legislature that details:

(1) the expenditures made by the department in the preceding state fiscal year in connection with:

(A) the unified transportation program of the department;

(B) turnpike projects and toll roads of the department; and

(C) [~~the Trans-Texas Corridor;~~

[~~(D)~~] rail facilities described in Chapter 91; [~~and~~

[~~(E) non-highway facilities on the Trans-Texas Corridor if those expenditures are subject to Section 227.062(c),~~]

(2) the amount of bonds or other public securities issued for transportation projects; and

(3) the direction of money by the department to a regional mobility authority in this state.

(b) The report must break down information under Subsection (a)(1)(A) by program category and department district. The report must break down information under Subsections (a)(1)(B) and[~~,~~] (C)[~~, (D), and (E)~~] and Subsection (a)(3) by department district. The report must break down information under Subsection (a)(2) by department district and type of project.

SECTION ____.05. Section 202.112(a), Transportation Code, is amended to read as follows:

(a) The commission may purchase an option to acquire property for possible use in or in connection with a transportation facility[~~, including a facility as defined by Section 227.001,~~] before a final decision has been made as to whether the transportation facility will be located on that property.

SECTION ____.06. Section 222.003(e), Transportation Code, is amended to read as follows:

(e) The proceeds of bonds and other public securities issued under this section may not be used for any purpose other than any costs related to the bonds and other public securities and the purposes for which revenues are dedicated under Section 7-a, Article VIII, Texas Constitution. [~~The proceeds of bonds and other public securities issued under this section may not be used for the construction of a state highway or other facility on the Trans-Texas Corridor. For purposes of this section, the "Trans-Texas Corridor" means the statewide system of multimodal facilities under the jurisdiction of the department that is designated by the commission, notwithstanding the name given to that corridor.~~]

SECTION ____.07. Section 223.201(a), Transportation Code, is amended to read as follows:

(a) Subject to Section 223.202, the department may enter into a comprehensive development agreement with a private entity to design, develop, finance, construct, maintain, repair, operate, extend, or expand a:

(1) toll project;

(2) [~~facility or a combination of facilities on the Trans-Texas Corridor;~~

[~~(3)~~] state highway improvement project that includes both tolled and nontolled lanes and may include nontolled appurtenant facilities;

(3) [~~(4)~~] state highway improvement project in which the private entity has an interest in the project; or

(4) [~~(5)~~] state highway improvement project financed wholly or partly with the proceeds of private activity bonds, as defined by Section 141(a), Internal Revenue Code of 1986.

SECTION ____.08. Section 223.206(d), Transportation Code, is amended to read as follows:

(d) The department may not enter into a comprehensive development agreement with a private entity under this subchapter [~~or Section 227.023~~] that provides for the lease, license, or other use of rights-of-way or related property by the private entity for the purpose of constructing, operating, or maintaining an ancillary facility that is used for commercial purposes.

SECTION ____.09. Sections 223.208(b), (c), (e), and (f), Transportation Code, are amended to read as follows:

(b) A comprehensive development agreement entered into under this subchapter [~~or Section 227.023(c)~~] may include any provision that the department considers appropriate, including provisions:

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

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

(3) providing for the payment of obligations incurred pursuant to the comprehensive development agreement, including any obligation to pay the purchase price for the interest of a private participant in the comprehensive development agreement, from any lawfully available source, including securing such obligations by a pledge of revenues of the commission or the department derived from the applicable project, which pledge shall have such priority as the department may establish;

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

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

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

(c) The department may enter into a comprehensive development agreement under this subchapter [~~or under Section 227.023(c)~~] with a private participant only if the project is identified in the department's unified transportation program or is

located on a transportation corridor identified in the statewide transportation plan.

(e) Notwithstanding anything in Section 201.112 or other law to the contrary, and subject to compliance with the dispute resolution procedures set out in the comprehensive development agreement, an obligation of the commission or the department under a comprehensive development agreement entered into under this subchapter [~~or Section 227.023(c)~~] to make or secure payments to a person because of the termination of the agreement, including the purchase of the interest of a private participant or other investor in a project, may be enforced by mandamus against the commission, the department, and the comptroller in a district court of Travis County, and the sovereign immunity of the state is waived for that purpose. The district courts of Travis County shall have exclusive jurisdiction and venue over and to determine and adjudicate all issues necessary to adjudicate any action brought under this subsection. The remedy provided by this subsection is in addition to any legal and equitable remedies that may be available to a party to a comprehensive development agreement.

(f) A comprehensive development agreement entered into under this subchapter [~~or Section 227.023(c)~~] and any obligations incurred, issued, or owed under the agreement does not constitute a state security under Chapter 1231, Government Code.

SECTION ____.10. Section 371.001(2), Transportation Code, as added by Chapter 103 (H.B. 570), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

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

(A) the department under Chapter [~~227 or~~] 228;

(B) a regional tollway authority under Chapter

366;

(C) a regional mobility authority under Chapter 370; or

(D) a county under Chapter 284.

SECTION ____.11. Section 371.001(a)(2), Transportation Code, as added by Chapter 258 (S.B. 11), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

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

(A) the department under Chapter [~~227 or~~] 228;

(B) a regional tollway authority under Chapter 366;

(C) a regional mobility authority under Chapter 370; or

(D) a county under Chapter 284.

SECTION ____.12. Section 371.001(2), Transportation Code, as added by Chapter 264 (S.B. 792), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

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

(A) the department[~~, including under Chapter 227~~];

(B) a regional tollway authority under Chapter 366;

(C) a regional mobility authority under Chapter 370; or

(D) a county under Chapter 284.

SECTION ____.13. The following provisions of the Transportation Code are repealed:

(1) Section 201.618(e);

(2) Chapter 227;

(3) Section 284.0032;

(4) Section 366.305;

(5) Section 370.316; and

(6) Section 545.3531.

811663

ENGROSSED RIDER NO. 66

FLOOR AMENDMENT NO. 80 BY: _____

Amend C.S.H.B. No. 300 (House committee printing) in Article 1 of the bill by adding the following appropriately numbered SECTION to that article and renumbering subsequent SECTIONS accordingly:

SECTION 1.___. Subchapter A, Chapter 201, Transportation Code, is amended by adding Section 201.004 to read as follows:

Sec. 201.004. PROHIBITED LOBBYING ACTIVITIES. (a) A person may not retain or employ another person, or accept any employment or render any service to influence an administrative action at the department or commission for compensation or for a commission contingent on the passage or defeat of the administrative action.

(b) A violation of this section is subject to the penalties provided for a violation of Section 305.022, Government Code.

(c) This section takes precedence over any other law or regulation to the contrary.

09 MAY -6 PM 9:39
HOUSE OF REPRESENTATIVES

ADOPTED
MAY 07 2009
Chief Clerk
House of Representatives

305
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ENGROSSED RIDER NO. 67

811545

FLOOR AMENDMENT NO. 81 BY: MARTINEZ

Amend C.S.H.B. No. 300 (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES accordingly:

ARTICLE ___. AVIATION

SECTION ___.01. Section 21.067, Transportation Code, is amended to read as follows:

Sec. 21.067. TEXAS AIRPORT DIRECTORY. (a) The department may:

(1) issue the Texas Airport Directory;

(2) sell advertising in the directory; and

(3) advertise the [~~sale of the~~] directory in other publications.

(b) The department may not [~~shall~~] charge a fee [~~not less than $5~~] for furnishing the Texas Airport Directory.

ADOPTED
MAY 07 2009
Chief Clerk
House of Representatives

306

ADOPTED As Amended

MAY 07 2009

Chief Clerk
House of Representatives



ENGROSSED RIDER NO. 68

09 MAY -6 PM 5:11

HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. 82 BY: [illegible]

Amend C.S.H.B. No. 300 (House committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering the remaining ARTICLES accordingly:

ARTICLE ___. AVIATION FACILITIES DEVELOPMENT AND FINANCIAL ASSISTANCE

SECTION ___.01. Section 21.101, Transportation Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The department may loan or grant money to a state agency with a governing board authorized to operate an airport, [~~or~~] to a governmental entity in this state, or to an owner of an eligible airport to establish, construct, reconstruct, enlarge, or repair an airport, airstrip, or air navigational facility if:

(1) the money has been appropriated to the department for that purpose; and

(2) providing the money will:

(A) best serve the public interest; and

(B) best discharge the governmental aeronautics function of the state or its political subdivisions.

(c) In this section, "eligible airport" means an airport eligible to receive grant funds under the airport improvement program established by 49 U.S.C. Section 47101 et seq.

SECTION ___.02. Section 21.105, Transportation Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Before approving a loan or grant to a governmental entity, the commission shall require that:

(1) the airport or facility remain in the control of each political subdivision involved for at least 20 years;

(2) the political subdivision disclose the source of all funds for the project and the political subdivision's ability to finance and operate the project;

(3) at least 10 percent of the total project cost be provided by sources other than the state; and

(4) the project be adequately planned.

(c) Before approving a loan or grant to an owner of an eligible airport as defined by Section 21.101, the commission shall require that:

(1) the airport or facility remain an eligible airport for at least 20 years;

(2) the owner demonstrate the ability to finance and operate the project; and

(3) the project be adequately planned.

SECTION ___.03. Section 21.112, Transportation Code, is amended to read as follows:

Sec. 21.112. EXPENDITURE OF AIR FACILITY CONSTRUCTION MONEY [~~BY STATE GOVERNMENTAL ENTITIES~~]. A governmental entity or eligible airport, as defined by Section 21.101, that receives money from the department to establish, construct, reconstruct, enlarge, or repair an airport, airstrip, or air navigational facility shall spend the money for those purposes and in conformity with commission rules.

811806

FLOOR AMENDMENT NO. 83 BY:

Amend Amendment No. 82 to C.S.H.B. No. 300 by Dukes (page 59 of the pre-filed amendment packet) on page 2, immediately following line 23, add the following appropriately numbered SECTIONS:

SECTION ___.04. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.620, to read as follows:

Sec. 201.620. APPLICABILITY OF SUBCHAPTER. This subchapter does not apply to planning concerning, application or selection for, or distribution of federal and state airport development grants.

SECTION ___.05. Subchapter D, Chapter 472, Transportation Code, is amended by adding Section 472.035 to read as follows:

Sec. 472.035. APPLICABILITY OF SUBCHAPTER. This subchapter does not apply to planning concerning, application or selection for, or distribution of federal and state airport development grants.

ADOPTED
MAY 07 2009
Robert Haney
Chief Clerk
House of Representatives

309

9.127.637 TJS

811668

ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

09 MAY -6 PM 9:43

HOUSE OF REPRESENTATIVES

ENGROSSED RIDER NO. 70

FLOOR AMENDMENT NO. 84 BY:

Amend C.S.H.B. No. 300 (House committee printing) by adding the following ARTICLE to the bill, appropriately numbered, and renumbering subsequent ARTICLES accordingly:

ARTICLE ___. AD VALOREM TAXATION OF HEAVY EQUIPMENT

SECTION __.01. (a) Section 23.1242(i), Tax Code, is amended to read as follows:

(i) If the amount in the escrow account is not sufficient to pay the taxes in full, the collector shall apply the money to the taxes and deliver to the owner a tax receipt for the partial payment and a tax bill for the amount of the deficiency together with a statement that the owner must remit to the collector the balance of the total tax due. If the amount in the escrow account exceeds the amount of the taxes due, the owner, at the owner's election, is entitled to receive:

(1) a refund of the excess amount; or

(2) a credit in the amount of the excess amount to be credited to the owner's escrow account for prepayment of taxes imposed in the following tax year.

(b) Subsection (a) of this section applies only to the payment of ad valorem taxes imposed in 2009 or a subsequent tax year.

310

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ENGROSSED RIDER NO. 71

ADOPTED MAY 07 2009 Chief Clerk House of Representatives

As Amended

FLOOR AMENDMENT NO. 86 BY: Wise Hartnett

08 MAY -6 PM 9:39

HOUSE OF REPRESENTATIVES

Amend C.S.H.B. No. 300 (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ___. HIGH-SPEED RAIL

SECTION ___.01. Section 91.001, Transportation Code, is amended by adding Subdivision (3-b) to read as follows:

(3-b) "High-speed rail" means passenger rail service capable of operating at speeds of more than 200 miles per hour.

SECTION ___.02. Chapter 91, Transportation Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. HIGH-SPEED RAIL FACILITATION AND ANALYSIS

Sec. 91.121. TEXAS HIGH-SPEED RAIL CORPORATION. (a) The commission shall create a corporation under Subchapter B, Chapter 431, for purposes of this subchapter.

(b) The corporation is not subject to the limitation provided by Section 431.072.

(c) The corporation must have a board of seven members, of whom:

(1) three are appointed by the commission; and

(2) four are appointed by the commission from a list of candidates submitted by the South Central High-Speed Rail and Transportation Authority, Inc., a local government corporation organized under Subchapter D, Chapter 431.

Sec. 91.122. DEVELOPMENT OF SYSTEM. Subject to the commission's oversight and control under Chapter 431, the commission may direct the corporation created under Section 91.121 to:

(1) plan and develop a high-speed rail facility under this chapter;

(2) solicit federal funding to be allocated to the department for the purposes of this subchapter;

(3) coordinate with federal planners and representatives from adjacent states for the interconnectivity of high-speed rail systems in this state with systems developed in federally designated high-speed rail corridors in other states;

(4) represent and negotiate on behalf of this state for the interconnectivity of high-speed rail with existing and planned transportation systems, including airports, seaports, transit systems, commuter rail systems, and highways; and

(5) coordinate with federal transportation planners and officials at the United States Department of Defense or its successor agency regarding issues related to the provision of connectivity to military installations in this state.

Sec. 91.123. SYSTEM REQUIREMENTS. A high-speed rail system developed under this subchapter must:

(1) enhance connectivity to this state's largest airports;

(2) enhance connectivity for and ease of passenger transport to and from military installations located in this state; and

(3) be developed in collaboration with high-speed rail projects in other areas of the United States to ensure interconnectivity with other federally designated high-speed rail corridors.

Sec. 91.124. REPORTS. The department annually shall submit a report regarding the activities of the department and the corporation under this subchapter to:

(1) the governor;

(2) the lieutenant governor;

(3) the speaker of the house of representatives; and

(4) the standing committee of each house of the

legislature that has primary jurisdiction over rail transportation issues.

811804

FLOOR AMENDMENT NO. 87 BY: Hartnett

Amend Floor Amendment No. 86 by Hartnett to C.S.H.B. No. 300 (page 206 in prefiled amendment packet) as follows:

(1) On page 1, line 27, strike ":" and substitute "solicit federal economic stimulus funding to be allocated for the purposes of this chapter."

(2) Strike page 1, line 28 through page 2, line 14.

ADOPTED
MAY 07 2009
Chief Clerk
House of Representatives

ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

811583

09 MAY -6 PM 7:49

HOUSE OF REPRESENTATIVES

ENGROSSED RIDER NO. 73

FLOOR AMENDMENT NO. 90

BY: Roberto R. Alonzo

Amend C.S.H.B. No. 300 (House committee printing) by adding the following ARTICLE to the bill, appropriately numbered, and renumbering subsequent ARTICLES accordingly:

ARTICLE __. MEMORIAL SIGN PROGRAM

SECTION ___.01. (a) Sections 201.909(e), (f), and (g), Transportation Code, are amended to read as follows:

(e) If the application meets the department's requirements and the applicant pays the memorial sign fee, the department shall erect a sign. A sign posted under this section may remain posted for two years [~~one year~~]. At the end of the two-year [~~one-year~~] period the department may release the sign to the applicant. The department is not required to release a sign that has been damaged.

(f) A sign posted under this section that is damaged shall be removed by the department. Except as provided in Subsection (g), the department may post a new sign if it has been less than two years [~~one year~~] from the posting of the original sign and a person:

(1) submits a written request to the department to replace the sign; and

(2) submits a replacement fee in the amount provided under Subsection (d)(2).

(g) During the two-year [~~one-year~~] posting period the department shall replace a sign posted under this section that is damaged because of the department's negligence.

(b) If the Texas Department of Transportation determines or is informed by the applicable federal agency that the change in law to Section 201.909, Transportation Code, as amended by this section, would result in the loss to the department or this state of federal funds, the Texas Department of Transportation:

(1) is not required to comply with Section 201.909,

Transportation Code, as amended by Subsection (a) of this section, but shall comply with Section 201.909, Transportation Code, as that section existed immediately before the effective date of this Act; and

(2) not later than January 1, 2011, shall submit a report to the lieutenant governor and the speaker of the house of representatives regarding the determination by the department or the applicable federal agency.

811701

ENGROSSED RIDER NO. 74

ADOPTED
MAY 07 2009
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 91 BY:

Amend H.B. 300 by adding a new article to read as follows and renumbering the articles of the bill appropriately:

ARTICLE __. TRANSPORTATION PROJECT FINANCING

SECTION _.01. Section 201.943(d), Transportation Code, is amended to read as follows:

(d) Obligations may be issued for one or more of the following purposes:

(1) to pay all or part of the costs of constructing, reconstructing, acquiring, and expanding state highways, including any necessary design and acquisition of rights-of-way, in the manner and locations determined by the commission that, according to conclusive findings of the commission, have an expected useful life, without material repair, of not less than 10 years;

(2) to provide participation by the state in the payment of part of the costs of constructing and providing publicly owned toll roads and other public transportation projects that are determined by the commission to be in the best interests of the state in its major goal of improving the mobility of the residents of the state;

(3) to make loans or grants to public entities, including the department, for the purposes described in

paragraphs (1) and (2) of this subsection;

(4) [~~(3)~~] to create debt service reserve accounts;

(5) [~~(4)~~] to pay interest on obligations for a period of not longer than two years;

(6) [~~(5)~~] to refund or cancel outstanding obligations; and

(7) [~~(6)~~] to pay the commission's costs of issuance.

SECTION _.02. Section 222.103(a), Transportation Code, is amended to read as follows:

(a) The department may participate, by spending money from any available source, in the cost of the acquisition, construction, maintenance, or operation of a toll facility of a public or private entity on terms and conditions established by the commission. The commission:

(1) may require the repayment of any money, including money from the Texas Mobility Fund, that is spent by the department for the cost of a toll facility of a public entity; and

(2) shall require the repayment of any money spent by the department for the cost of a toll facility of a private entity.

811677

ADOPTED As Amended

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

ENGROSSED RIDER NO. 75

FLOOR AMENDMENT NO. 92 BY:

Amend C.S.H.B. No. 300 (House committee printing) by adding the following ARTICLE to the bill, appropriately numbered, and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ___. NOTIFICATION BY DEPARTMENT REGARDING HIGHWAY CONSTRUCTION PROJECTS.

SECTION __.01. Section 203.022(c), Transportation Code, is amended to read as follows:

(c) The department shall by rule provide procedures for informing adjoining property owners and affected local governments and public officials of impending construction. The rules must require the department to provide written notice to the governing body of a municipality not later than the 14th day before the date the department begins construction of a state highway project in the municipality.

09 MAY -6 PM 2:39
HOUSE OF REPRESENTATIVES

319

9.126.745 ACP



ADOPTED
MAY 07 2009
Robert Haney
Chief Clerk
House of Representatives

ENGROSSED RIDER NO. 76

FLOOR AMENDMENT NO. 93 BY: Pickett

#92R

Amend the Turner of Tarrant amendment to C.S.H.B. 300 on page 1, line 14, after the period, by inserting "The department may provide the notice in an electronic format, if requested by the governing body of the municipality."

~~p. 292~~

~~677~~

320

ENGROSSED RIDER NO. 77 

FLOOR AMENDMENT NO. 95 BY: Jim Miller

Amend H.B. No. 300 by adding the following SECTION to the bill, appropriately numbered, and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION ___. Section 222.034, Transportation Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsection (c), federal [~~Federal~~] aid for transportation purposes that is administered by the commission shall be distributed to the various parts of the state for a funding cycle through the selection of highway projects in the state in a manner that is consistent with federal formulas that determine the amount of federal aid for transportation purposes received by the state. A distribution under this subsection does not include deductions made for the state infrastructure bank or other federal funds reallocated by the federal government.

(c) The commission shall give funding priority to highway projects that enhance federally designated emergency evacuation routes.

09 MAY -6 PM 3:04
HOUSE OF REPRESENTATIVES

ADOPTED
MAY 07 2009
Robert Haney
Chief Clerk
House of Representatives

As Amended

811783

ENGROSSED RIDER NO. 78

AMENDMENT TO FLOOR AMENDMENT NO. 96 BY: [signature]

Amend Amendment No. 95 by Miller to C.S.H.B. 300 as follows:

Strike lines 17, 18, and 19 and substitute the following: "(c) The commission shall consider emergency evacuation routes from nuclear power plants for funding if federal funds become available for emergency evacuation routes."

ADOPTED
MAY 07 2009
[signature]
Chief Clerk
House of Representatives

322

P. 26

ADOPTED
MAY 07 2009
Chief Clerk
House of Representatives



ENGROSSED RIDER NO. 79

FLOOR AMENDMENT NO. 97 BY:

Amend proposed C.S.H.B. No. 300, in ARTICLE __ of the bill, by adding the following SECTIONS, appropriately numbered, and renumbering existing SECTIONS in ARTICLE __ accordingly:

SECTION ___. Section 222.103, Transportation Code, is amended by adding new subsection (i) to read as follows:

(i) In providing financial assistance for toll projects, the commission shall give priority to providing financial assistance to public entities in the development, financing, construction and operation of toll projects by the public entity under Section 228.011, Section 228.0111 or Chapter 373.



ADOPTED As Amended

MAY 07 2009

Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 101 BY: ELKINS

ENGROSSED RIDER NO. 80

Amend C.S.H.B. No. 300 (house committee printing) by adding the following ARTICLE to the bill, appropriately numbered, and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ___. PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEMS

SECTION __.01. Chapter 707, Transportation Code, is amended by adding Section 707.0035 to read as follows:

Sec. 707.0035. DEPARTMENT APPROVAL. The Texas Department of Transportation has jurisdiction regarding photographic traffic signal enforcement systems in this state and shall adopt rules regarding photographic traffic signal enforcement systems in this state, including:

(1) the specifications for the systems;

(2) the identification of intersections where a system may be installed; and

(3) the operation and maintenance of the systems.

09 MAY -6 PM 9:42
HOUSE OF REPRESENTATIVES

324

ENGROSSED RIDER NO. 81

ADOPTED
MAY 07 2009
Robert Haney
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 102 BY: ORTIZ ELKINS

Amend Floor Amendment No. 101 to C.S.H.B. No. 300 by Elkins as follows:

(1) On page 1, strike lines 6-9, and substitute the following:

SECTION ___.01. (a) Subchapter D, Chapter 201, Transportation Code, is amended by adding Section 201.210 to read as follows:

Sec. 201.210. DEPARTMENT APPROVAL. (a) The department has jurisdiction regarding photographic

(2) On page 1, after line 16, insert the following:

(b) The department may not approve the implementation or operation of a photographic traffic signal enforcement system that was not in operation on June 1, 2009, or for which a contract for the administration or enforcement of the system had not been entered into by a local authority on or before that date.

(c) A local authority may not enter into a contract for the administration or enforcement of a photographic traffic signal enforcement system after June 1, 2009. A contract for the administration or enforcement of such a system entered into by a local authority on or before June 1, 2009, may not be renewed or the term of the contract extended.

(d) The department by rule shall require that the change interval in a light equipped with a photographic traffic signal enforcement system must be at least one second longer than the minimum change interval established in accordance with the Texas Manual on Uniform Traffic Control Devices.

(b) This subsection and Subsection (a) of this section take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by

Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this subsection and Subsection (a) of this section take effect September 1, 2009.

811675

ADOPTED As Amended

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

09 MAY -6 PM 9:45
HOUSE OF REPRESENTATIVES

ENGROSSED RIDER NO. 82

FLOOR AMENDMENT NO. 103 BY: Phillips

Amend C.S.H.B. No. 300 (House committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ___. REGIONAL MOBILITY AUTHORITIES

SECTION ___.01. Sections 370.003(12) and (14), Transportation Code, are amended to read as follows:

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

(A) an authority's debt service requirements for a transportation project, including the redemption or purchase price of bonds subject to redemption or purchase as provided in the applicable bond proceedings;

(A-1) an authority's payment obligations under a contract or agreement authorized by this chapter;

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

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

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

(E) funds allocated for feasibility studies; and

(F) necessary reserves as determined by the authority.

(14) "Transportation project" means:

(A) a turnpike project;

(B) a system;

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

(i) tracks;

(ii) a rail line;

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

(iv) a depot;

(v) a locomotive;

(vi) rolling stock;

(vii) a maintenance facility; and

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

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

(E) a ferry;

(F) an airport, other than an airport that on September 1, 2005, was served by one or more air carriers engaged in scheduled interstate transportation, as those terms were defined by 14 C.F.R. Section 1.1 on that date;

(G) a pedestrian or bicycle facility;

(H) an intermodal [~~intermodel~~] hub;

(I) an automated conveyor belt for the movement of freight;

(J) a border crossing inspection station;

(K) an air quality improvement initiative;

(L) a public utility facility;

(M) a transit system;

(M-1) a parking area, structure, or facility, or a collection device for parking fees; and

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

SECTION ___.02. Section 370.004(a), Transportation Code, is amended to read as follows:

(a) The cost of acquisition, construction, improvement,

extension, or expansion of a transportation project under this chapter includes the cost of:

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

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

(3) machinery and equipment;

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

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

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

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

(8) financing;

(9) the assumption of debts, obligations, and liabilities of an entity relating to a transportation project transferred to an authority by that entity; [~~and~~]

(10) expenses related to the initial operation of the transportation project; and

(11) payment obligations of an authority under a contract or agreement authorized by this chapter in connection with the acquisition, construction, improvement, extension, expansion, or financing of the transportation project.

SECTION ___.03. Sections 370.033(a), (f), and (g), Transportation Code, are amended to read as follows:

(a) An authority, through its board, may:

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

(2) adopt an official seal;

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

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

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

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

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

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

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

(8) employ and set the compensation and benefits of administrators, consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, full-time and part-time employees, agents, consultants, and other

persons as the authority considers necessary or useful;

(8-a) participate in the state travel management program administered by the comptroller for the purpose of obtaining reduced airline fares and reduced travel agent fees, provided that the comptroller may charge the authority a fee not to exceed the costs incurred by the comptroller in providing services to the authority;

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

(10) install, construct, or contract for the construction of public utility facilities, direct the time and manner of construction of a public utility facility in, on, along, over, or under a transportation project, or request the removal or relocation of a public utility facility in, on, along, over, or under a transportation project;

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

(12) adopt and enforce rules not inconsistent with this chapter for the use of any transportation project, including tolls, fares, or other user fees, speed and weight limits, and

traffic and other public safety rules, provided that an authority must consider the same factors that the Texas Turnpike Authority division of the department must consider in altering a prima facie speed limit under Section 545.354;

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

(14) borrow money from or enter into a loan agreement or other arrangement with the state infrastructure bank, the department, the commission, or any other public or private entity; and

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

(f) An authority and a governmental entity may enter into a contract, agreement, interlocal agreement, or other similar 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, subject to the transportation project being in the authority's area of jurisdiction. A contract or agreement under this subsection may contain terms and conditions as may be approved by an authority, including payment obligations of the governmental entity and the authority.

(g) Payments to be made to an authority under a contract or agreement 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.

SECTION ___.04. Subchapter B, Chapter 370, Transportation Code, is amended by adding Section 370.040 to read as follows:

Sec. 370.040. TOLL COLLECTION. (a) In this section, "tolling services" means the tolling services normally provided through an authority's customer service center, or through contracted services provided to the authority, including customer service, customer account maintenance, transponder supply, and toll collection and enforcement.

(b) An authority shall provide, for reasonable compensation, tolling services for a toll project in the geographic boundaries of the authority, regardless of whether the toll project is developed, financed, constructed, and operated under an agreement, including a comprehensive development agreement, with the authority or another entity. Nothing in this section shall restrict an authority from agreeing to provide additional tolling services in an agreement described in Subsection (d). Any such additional tolling services shall be subject to the same provisions that apply to tolling services under this section.

(c) An authority may not provide financial security, including a cash collateral account, for the performance of tolling services it provides under this section if:

(1) the authority determines that providing security could restrict the amount or increase the cost of bonds or other debt obligations the authority may subsequently issue under this chapter; or

(2) the authority is not reimbursed its cost of providing the security.

(d) Before providing tolling services for a toll project under this section, an authority must enter into a written

agreement that sets out the terms and conditions for the tolling services to be provided and the terms of compensation for those services.

(e) Toll revenues are the property of the entity that is entitled to the revenues under a tolling services agreement for the toll project, regardless of who holds or collects the revenues. Toll revenues that are held or collected by an authority under a tolling services agreement that are not the property of the authority are not subject to a claim adverse to the authority or a lien on or encumbrance against property of the authority. Toll revenues that are the property of the authority are not subject to a claim adverse to any other entity or a lien on or encumbrance against property of any other entity.

(f) An authority may agree in a tolling services agreement that its right and obligation to provide services for the applicable toll project under this section are subject to termination for default, and that after any such termination this section no longer applies to that toll project.

(g) Any public or private entity, including an authority or the department, may agree to fund a cash collateral account for the purpose of providing funds that may be withdrawn as provided in the tolling services agreement because of an authority's failure to make any payment as required by the tolling services agreement. An authority's written commitment to fully or partially fund a cash collateral account conclusively evidences its determination that the commitment does not violate Subsection (c). The department may expend money from any available source for this purpose.

(h) Subsection (b) may be waived by the authority under a written agreement between the authority and the entity developing the toll project.

SECTION ___.05. Sections 370.071(a) and (b),

Transportation Code, are amended to read as follows:

(a) An authority may pay the expenses of studying the cost and feasibility of a transportation project, the design and engineering of a transportation project, and any other expenses relating to the preparation and issuance of bonds for a proposed transportation project by:

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

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

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

(4) pledging to the payment of the bonds or a loan agreement the proceeds from the sale of other bonds.

(b) Money spent under this section for a proposed transportation project must be reimbursed to the transportation project from which the money was spent from the proceeds of bonds issued for the acquisition and construction of the proposed transportation project, unless the transportation projects are or become part of a system under Section 370.034.

SECTION ___.06. Section 370.072(c), Transportation Code, is amended to read as follows:

(c) Money in the feasibility study fund may be used only to pay the expenses of studying the cost and feasibility of a transportation project, the design and engineering of a transportation project, and any other expenses relating to:

(1) the preparation and issuance of bonds for the

acquisition and construction of a proposed transportation project;

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

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

SECTION ___.07. Section 370.073(a), Transportation Code, is amended to read as follows:

(a) One or more municipalities, counties, or other governmental entities, a combination of municipalities, counties, and other governmental entities, or a private group or combination of individuals in this state may pay all or part of the expenses of studying the cost and feasibility <u>of a transportation project, the design and engineering of a transportation project,</u> and any other expenses relating to:

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

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

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

SECTION ___.08. Section 370.113(a), Transportation Code, is amended to read as follows:

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

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

(2) payments made under an agreement with the commission, the department, or other governmental entity as authorized [~~provided~~] by this chapter [~~Subchapter G~~];

(3) money derived from any other source available to the authority, other than money derived from a transportation project that is not part of the same system or money derived from a different system, except to the extent that the surplus revenue of a transportation project or system has been pledged for that purpose; [~~and~~]

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

(5) the proceeds of the sale of other bonds.

SECTION ___.09. Section 370.114, Transportation Code, is amended to read as follows:

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

(1) is enforceable at the time of payment for and delivery of the bond or on the effective date of the agreement;

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

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

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

(b) A copy of any bond resolution shall [~~is not required to~~] be maintained [~~recorded except~~] in the regular records of the

authority.

SECTION ___.10. Section 370.172, Transportation Code, is amended by amending Subsection (b) and adding Subsection (k) to read as follows:

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

(1) provides revenue sufficient to pay:

(A) the cost of maintaining, repairing, and operating the transportation project; [~~and~~]

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

(C) any other payment obligations of an authority under a contract or agreement authorized under this chapter; and

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

(k) Notwithstanding any other provision of this chapter to the contrary, an authority may pledge all or any part of its revenues and any other funds available to the authority to the payment of any obligations of the authority under a contract or agreement authorized by this chapter.

SECTION ___.11. Section 370.173(c), Transportation Code, is amended to read as follows:

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

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

(2) provide matching money required in connection with

any federal, state, local, or private aid, grant, or other funding, including aid or funding by or with public-private partnerships;

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

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

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

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

SECTION ___.12. Section 370.177, Transportation Code, is amended by adding Subsection (l) to read as follows:

(l) In addition to the other powers and duties provided by this chapter, with regard to its toll collection and enforcement powers for its turnpike projects or other toll projects developed, financed, constructed, and operated under an agreement, including a comprehensive development agreement, with the authority or another entity, an authority has the same powers and duties as the department under Chapter 228, a county under Chapter 284, and a regional tollway authority under Chapter 366.

SECTION ___.13. Sections 370.251(a) and (b), Transportation Code, are amended to read as follows:

(a) Except as provided by Subsection (a-1), the governing body of an authority is a board of directors consisting of representatives of each county in which a transportation project of the authority is located or is proposed to be located. The

commissioners court of each county that initially forms the authority shall appoint at least two directors to the board. Additional directors may be appointed to the board at the time of initial formation by agreement of the counties creating the authority to ensure fair representation of political subdivisions in the counties of the authority that will be affected by a transportation project of the authority, provided that the number of directors must be an odd number. The commissioners court of a county that is subsequently added to the authority shall appoint at least one director to the board. The governor shall appoint one director to the board who shall serve as the presiding officer of the board and shall appoint an additional director to the board if an appointment is necessary to maintain an odd number of directors on the board.

(b) The appointment [~~Unless the commissioners courts~~] of additional directors from a county subsequently added to an [~~the counties of the~~] authority or from a [~~unanimously agree otherwise, the commissioners court of each~~] county of an authority that contains an operating transportation project of the authority shall be by a process unanimously agreed to by the commissioners courts of all the counties of the authority [~~appoint one additional director~~].

SECTION ___.14. Section 370.303, Transportation Code, is amended by amending Subsections (a) and (b) and adding Subsections (b-1) and (g) to read as follows:

(a) A governmental entity [~~other than a nonprofit corporation~~] may, consistent with the Texas Constitution, issue bonds, notes, or other obligations or enter into and make payments under agreements with an authority in connection with the financing, acquisition, construction, [~~to acquire, construct, maintain,~~] or operation of [~~operate~~] a transportation project by an

authority, 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:

(1) issue bonds, notes, or other obligations;

(2) [~~,~~] create:

(A) a taxing district;

(B) a transportation reinvestment zone under Subchapter E, Chapter 222; or

(C) an entity to promote economic development;

(3) collect and remit to an authority taxes, fees, or assessments collected for purposes of developing transportation projects;

(4) [~~,~~] fund public improvements to promote economic development;[~~,~~] or

(5) enter into and make payments under an agreement to acquire, construct, maintain, or operate any portion of a transportation project of the authority.

(b-1) An agreement under Subsection (b) may include a means for a local governmental entity to pledge or otherwise provide funds for a transportation project that benefits the governmental entity to be developed by the authority.

(g) An agreement under this section may contain repayment or reimbursement obligations of an authority.

SECTION ___.15. Section 370.304, Transportation Code, is

amended to read as follows:

Sec. 370.304. ADDITIONAL AGREEMENTS OF AUTHORITY. An authority may enter into any contract, loan agreement, or other agreement necessary or convenient to achieve the purposes of this subchapter.

SECTION ___.16. Section 371.051(a), Transportation Code, as added by Chapter 103 (H.B. 570), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

(a) A toll project entity may not use motor vehicle registration or other information derived from a license plate on a vehicle using a toll project, including information obtained by the use of automated enforcement technology described by Section 228.058, for purposes other than those related to:

(1) toll collection, [~~and~~] toll collection enforcement, and toll project development and operation; and

(2) law enforcement purposes on request by a law enforcement agency[~~, subject to Section 228.058(d)~~].

SECTION ___.17. Section 370.317(d), Transportation Code, is repealed.

SECTION ___.18. Section 370.040, Transportation Code, as added by this article, does not apply to a segment, extension, or expansion of the Interstate 35/State Highway 130 project in the previously designated Interstate 35 corridor, or to a segment, extension, or expansion of the Interstate 69/US Highway 77 project in the previously designated Interstate 69 corridor. Section 370.040, Transportation Code, as added by this article, may only apply to a project for which the Texas Department of Transportation has entered into a contract before the effective date of this Act if the Texas Department of Transportation transfers a leasehold interest in the project or the right to operate and retain revenue from the project, and the Texas Department of Transportation does

not continue to provide tolling services for the project.

811829

FLOOR AMENDMENT NO. 104 BY: Pickett

ENGROSSED RIDER NO. 83

Amend amendment No. 103 by Phillips to C.S.H.B 300 (page 270 of the amendment packet) as follows:

(1) On pages 7 and 8 strike SECTION __.04 of the amendment, new Sec. 370.040 of the Transportation Code.

ADOPTED
MAY 07 2009
Robert Haney
Chief Clerk
House of Representatives

Pg 270

HB ()5-7-2009@10-30-43 PM

811684

ADOPTED

MAY 07 2009

Robert Haney
Chief Clerk
House of Representatives

09 MAY -6 PM 9:47

HOUSE OF REPRESENTATIVES

ENGROSSED RIDER NO. 84

FLOOR AMENDMENT NO. 105 BY: Bonnen

Amend __.B. No. _____ by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION _____. Subchapter A, Chapter 223, Transportation Code, is amended by adding Section 223.0125 to read as follows:

Sec. 223.0125. PAYMENT TO AFFECTED BUSINESS ENTITIES. (a) This section does not apply to a highway construction project for which the contractor is an electric utility, as defined by Section 31.002, Utilities Code, or a gas utility, as defined by Section 101.003 or 121.001, Utilities Code.

(b) The schedule under Section 223.012(a) must, for a highway construction project with a planned construction duration of more than six months, provide for liquidated damages to be paid by a contractor to business entities located in a project area that are adversely affected by project completion delays. The department shall:

(1) incorporate the schedule as part of each contract awarded by the commission for a highway construction project with a planned construction duration of more than six months;

(2) collect the damages;

(3) if the business entity is located in the corporate limits of a municipality, send the damages collected to the municipality in which the business entities are located; and

(4) notify each affected business entity that the damages have been collected and sent to the municipality.

(c) To receive damages collected under this section, a business entity must submit a claim to the department or, if applicable, to the municipality. The department or a municipality shall distribute damages collected under this section according to

the schedule.

(d) If a business entity located in the corporate limits of a municipality does not submit a claim for damages under Subsection (c) before the first anniversary of the date on which the business entity received notice under Subsection (b)(4), the municipality may use that portion of the damages for transportation projects that will benefit the municipality.

(e) The department and a municipality hold damages paid by a contractor under this section in trust for the benefit of a business entity that is adversely affected. The money used to pay damages under this section is held by the department outside the treasury and is transferred by the department without an appropriation.

811657

ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 107 BY: Joe C. Pickett

09 MAY -8 PM 9:49
HOUSE OF REPRESENTATIVES

ENGROSSED RIDER NO. 85

Amend C.S.H.B. No. 300 by adding the following appropriately numbered ARTICLE and renumbering subsequent ARTICLES accordingly:

ARTICLE ___. COUNTY ROAD AND BRIDGE FUND

SECTION __.01. Section 256.001, Transportation Code, is amended to read as follows:

Sec. 256.001. USE OF COUNTY ROAD AND BRIDGE FUND. (a) Except as otherwise provided by law, [~~Money~~] money in the road and bridge fund of a county may be used only for:

(1) working public roads or building bridges;

(2) purchasing right-of-way for public roads or bridges; or

(3) constructing and maintaining public roads or bridges, including the hiring of labor and the purchase of materials, supplies, and equipment [~~except as otherwise provided by law~~].

(b) Money in the fund may be spent only by order of the commissioners court of the county. The court may make the necessary orders for using the money for the purposes provided by this section.

(1) The commissioners court, in spending the vehicle registration fees for county road purposes, shall regard the roads and highways of the county as a system to be built, improved and maintained as a whole to the best interests and welfare of all the people of the county and of all the precincts of the county.

X

ENGROSSED RIDER NO. 86



ADOPTED
MAY 08 2009
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 112 BY:

Amend C.S.H.B. No. 300 (House committee printing) by adding the following ARTICLE to the bill, appropriately numbered, and renumbering subsequent ARTICLES accordingly:

ARTICLE ___. HIGHWAY AND OVERPASS DESIGNATIONS

SECTION __.01. Subchapter B, Chapter 225, Transportation Code, is amended by adding Section 225.080 to read as follows:

Sec. 225.080. TROOPER TODD DYLAN HOLMES MEMORIAL OVERPASS. (a) The structure on U.S. Highway 259 that passes over State Highway 155 in Upshur County is designated as the Trooper Todd Dylan Holmes Memorial Overpass.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the highway number, the designation as the Trooper Todd Dylan Holmes Memorial Overpass, and any other appropriate information; and

(2) erect a marker:

(A) at each end of the structure and at appropriate intermediate sites along the structure, including a site that is visible to a vehicle traveling on State Highway 155 as the vehicle travels under the structure; and

(B) on each side of State Highway 155 at a site that is visible to approaching vehicles.

P. 44

ADOPTED AS Amended

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives



ENGROSSED RIDER NO. 87

09 MAY -6 PM 7:57

HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. 113 BY: [signature]

Amend C.S.H.B. No. 300 (House committee printing) by adding the following ARTICLE to the bill, appropriately numbered, and renumbering subsequent ARTICLES accordingly:

ARTICLE ___. HIGHWAY AND OVERPASS DESIGNATIONS

SECTION __.01. Subchapter B, Chapter 225, Transportation Code, is amended by adding Section 225.081 to read as follows:

Sec. 225.081. BUDDY WEST MEMORIAL OVERPASS. (a) The structure on Loop 338 that passes over Interstate Highway 20 in Ector County is designated as the Buddy West Memorial Overpass.

(b) The department shall:

(1) design and construct markers indicating the highway number, the designation as the Buddy West Memorial Overpass, and any other appropriate information; and

(2) erect a marker at each end of the structure and at appropriate intermediate sites along the structure.

(c) Section 225.021(c) does not apply to this section.

811803

ENGROSSED RIDER NO. 88

FLOOR AMENDMENT NO 114 BY: Gallego

Amend Floor Amendment No. 113 to C.S.H.B. No. 300 by Swinford (page 80, prefiled amendment packet), as follows:

(1) Strike line 4 and substitute the following:

ARTICLE __. HIGHWAY, OVERPASS, AND BRIDGE DESIGNATIONS

(2) On line 6, strike "Section 225.081" and substitute "Sections 225.081 and 225.082".

(3) Immediately below line 16, add the following:

Sec. 225.082. REPRESENTATIVE RICHARD C. SLACK BRIDGE. The Presidio International Bridge is designated as the Representative Richard C. Slack Bridge.

(b) The department shall:

(1) design and construct markers indicating the designation of the bridge as the Representative Richard C. Slack Bridge, and any other appropriate information; and

(2) erect a marker at each end of the bridge and at appropriate intermediate sites along the bridge.

(c) Section 225.021(c) does not apply to this section.

ADOPTED
MAY 08 2009
Robert Haney
Chief Clerk
House of Representatives

350
1



09 MAY -6 PM 9:28
HOUSE OF REPRESENTATIVES

ADOPTED
MAY 08 2009
Robert Haney
Chief Clerk
House of Representatives

ENGROSSED RIDER NO. 89

FLOOR AMENDMENT NO. 115 BY: Wayne Smith

Amend C.S.H.B. No. 300 (House committee printing) in ARTICLE 3 of the bill by adding the following appropriately numbered SECTION to that article and renumbering the remaining SECTIONS of that article accordingly:

SECTION 3.___. The change in law made by this Act to Subchapter E, Chapter 228, Transportation Code, applies only to a contract for the construction of a highway or segment of a highway that the Texas Department of Transportation enters into on or after the effective date of this Act. A contract for the construction of a highway or segment of a highway entered into before the effective date of this Act is governed by the law in effect on the date the contract was entered into, and that law is continued in effect for that purpose.

811685

ADOPTED AS AMENDED
MAY 08 2009
Robert Haney
Chief Clerk
House of Representatives

09 MAY -6 PM 9:54
HOUSE OF REPRESENTATIVES

ENGROSSED RIDER NO. 90

FLOOR AMENDMENT NO. 116

BY: Harper-Brown

Amend C.S.H.B. No. 300 (house committee printing) as follows: by adding the following appropriately numbered sections and renumbering existing sections accordingly:

SECTION _ Section 228.004, Transportation Code, is amended to read as follows:

Sec. 228.004. [~~PROMOTION OF~~] TOLL PROJECT INFORMATION. (a) The department may, notwithstanding Chapter 2113, Government Code, engage in [~~marketing,~~] advertising[~~,~~] and other activities to provide information relating to the status of pending or ongoing[~~promote the development and use of~~] toll projects and may enter into contracts or agreements necessary to procure [~~marketing,~~] advertising[~~,~~] or informational [~~other promotional~~] services from outside service providers.

(b) This section does not authorize the department to engage in advertising or other activities for the purpose of influencing public opinion about the use of toll roads or the use of tolls as a financial mechanism.

SECTION _ The change in law made by this Act applies only to a contract or agreement entered into or renewed under Section 228.004, Transportation Code, on or after the effective date of this Act. A contract or agreement entered into or renewed under that section before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION _ This Act takes effect September 1, 2009.

352
X

811748

ENGROSSED RIDER NO. 91

FLOOR AMENDMENT NO. 117 #116 BY: Pickett

Amend the Harper-Brown amendment to C.S.H.B. 300 as follows:

(1) On page 1, lines 9-10, strike "the status of pending or ongoing", and substitute "pending or operating".

(2) On page 1, line 10, between "projects" and "and", insert ", including providing information concerning the methods of paying and collecting tolls,".

(3) Strike the SECTION beginning on page 1, line 25.

ADOPTED
MAY 08 2009
Robert Haney
Chief Clerk
House of Representatives

353
1

685
p.301

811711

ADOPTED AS Amended
MAY 08 2009
Robert Haney
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 118 BY: [signature]

ENGROSSED RIDER NO. 92

SECTION 1. Section 228.012(b), Transportation Code, is amended to read as follows:

(b) The department shall hold money in a subaccount in trust for the benefit of the region in which a project or system is located and may, after any necessary consultation with the metropolitan planning organization, council of governments or a similar planning agency for the region, enter into an agreement or agreements with the municipalities, counties or local governmental entities in the region for the distribution of money to such entities in such region that are authorized to construct, maintain, or operate projects that are eligible for funding with that money.~~assign the responsibility for allocating money in a subaccount to a metropolitan planning organization in which the region is located.~~ Except as provided by Subsection (c), money shall be allocated to projects authorized by Section 228.0055 or Section 228.006, as applicable.

HOUSE OF REPRESENTATIVES

354
X



ADOPTED
MAY 08 2009
Chief Clerk
House of Representatives

ENGROSSED RIDER NO. 93

FLOOR AMENDMENT NO. 119 BY: Pickett

#118

Amend the Parker amendment to C.S.H.B. 300 as follows:

(1) On page 1, lines 5 and 6, strike ", after any necessary consultation with the metropolitan planning organization," and substitute "enter into an agreement or agreements with a".

(2) On page 1, lines 7-10, strike ", enter into an agreement or agreements with the municipalities, counties, or local governmental entities in the region for the distribution of money to such entities in such region" and substitute "under which the council of governments or similar agency receives, manages, and distributes the money to entities in the region".

(3) On page 1, line 12, strike ".".

#711

355

1

p.383

811702

ADOPTED AS Amended
MAY 08 2009
Robert Haney
Chief Clerk
House of Representatives

09 MAY -6 PM 9:50
HOUSE OF REPRESENTATIVES

ENGROSSED RIDER NO. 94

FLOOR AMENDMENT NO. 120 BY: _____

Amend C.S.H.B. No. 300 (House committee printing) as follows:

(1) Add the following appropriately numbered ARTICLE to the bill:

ARTICLE ____. MOTOR VEHICLE RENTAL INFORMATION RELATING TO THE PAYMENT OF TOLLS

SECTION ____.01. Section 228.055, Transportation Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) It is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle is a lessor of the vehicle and not later than the 30th day after the date the notice of nonpayment is mailed provides to the department:

(1) a copy of the rental, lease, or other contract document covering the vehicle on the date of the nonpayment under Section 228.054, with the name and address of the lessee clearly legible; or

(2) electronic data, other than a photocopy or scan of a rental or lease contract, that contains the information required under Sections 521.460(c)(1), (2), and (3) covering the vehicle on the date of the nonpayment under Section 228.054.

(d-1) If the lessor provides the required information within the period prescribed under Subsection (d), the department may send a notice of nonpayment to the lessee at the address provided under Subsection (d) [~~shown on the contract document~~] by first class mail before the 30th day after the date of receipt of the required information from the lessor. The lessee of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative fee within the time specified by

the notice of nonpayment commits an offense. The lessee shall pay a separate toll and administrative fee for each event of nonpayment. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

SECTION ____.02. Sections 228.056(b) and (c), Transportation Code, are amended to read as follows:

(b) In the prosecution of an offense under Section 228.055(c), (d-1) [~~(d)~~], or (e):

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

(2) a computer record of the Texas Department of Motor Vehicles [~~department~~] of the registered owner of the vehicle is prima facie evidence of its contents and that the defendant was the registered owner of the vehicle when the underlying event of nonpayment under Section 228.054 occurred; and

(3) a copy of the rental, lease, or other contract document, or the electronic data provided to the department under Section 228.055(d), covering the vehicle on the date of the underlying event of nonpayment under Section 228.054 is prima facie evidence of its contents and that the defendant was the lessee of the vehicle when the underlying event of nonpayment under Section 228.054 occurred.

(c) It is a defense to prosecution under Section 228.055(c), (d-1) [~~(d)~~], or (e) that the motor vehicle in question was stolen before the failure to pay the proper toll occurred and had not been recovered before the failure to pay occurred, but only if the theft was reported to the appropriate law enforcement authority before the earlier of:

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

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

SECTION ____.03. Section 284.0701, Transportation Code, is

amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) It is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle is a lessor of the vehicle and not later than the 30th day after the date the notice of nonpayment is mailed provides to the authority:

(1) a copy of the rental, lease, or other contract document covering the vehicle on the date of the nonpayment under Section 284.070, with the name and address of the lessee clearly legible; or

(2) electronic data, other than a photocopy or scan of a rental or lease contract, that contains the information required under Sections 521.460(c)(1), (2), and (3) covering the vehicle on the date of the nonpayment under Section 284.070.

(d-1) If the lessor provides the required information within the period prescribed under Subsection (d), the authority may send a notice of nonpayment to the lessee at the address provided under Subsection (d) [~~shown on the contract document~~] by first class mail before the 30th day after the date of receipt of the required information from the lessor. The lessee of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative cost within the time specified by the notice of nonpayment commits an offense. The lessee shall pay a separate toll and administrative cost for each event of nonpayment. Each failure to pay a toll or administrative cost under this subsection is a separate offense.

SECTION ____.04. Sections 284.0702(b) and (c), Transportation Code, are amended to read as follows:

(b) In the prosecution of an offense under Section 284.0701(c), (d-1) [~~(d)~~], or (e):

(1)[~~,~~] a computer record of the Texas Department of Motor Vehicles [~~department~~] of the registered owner of the vehicle is prima facie evidence of its contents and that the defendant was the registered owner of the vehicle when the underlying event of nonpayment under Section 284.070 occurred; and

(2) a copy of the rental, lease, or other contract document, or the electronic data provided to the authority under Section 284.0701(d), covering the vehicle on the date of the underlying event of nonpayment under Section 284.070 is prima facie evidence of its contents and that the defendant was the lessee of the vehicle when the underlying event of nonpayment under Section 284.070 occurred.

(c) It is a defense to prosecution under Section 284.0701(c), (d-1) [~~(d)~~], or (e) that the vehicle in question was stolen before the failure to pay the proper toll occurred and had not been recovered before the failure to pay occurred, but only if the theft was reported to the appropriate law enforcement authority before the earlier of:

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

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

SECTION ____.05. Section 366.178, Transportation Code, is amended by amending Subsections (f) and (i) and adding Subsection (i-1) to read as follows:

(f) In the prosecution of a violation for nonpayment, proof that the vehicle passed through a toll collection facility without payment of the proper toll together with proof that the defendant was the registered owner or the driver of the vehicle when the failure to pay occurred, establishes the nonpayment of the registered owner. The proof may be by testimony of a peace officer or authority employee, video surveillance, or any other reasonable evidence, including a copy of the rental, lease, or other contract

document or the electronic data provided to the authority under Subsection (i) that shows the defendant was the lessee of the vehicle when the underlying event of nonpayment occurred.

(i) A registered owner who is the lessor of a vehicle for which a notice of nonpayment has been issued is not liable if, not later than the 30th day after the date the notice of nonpayment is mailed, the registered owner provides to the authority:

(1) a copy of the rental, lease, or other contract document [~~lease agreement~~] covering the vehicle on the date of the nonpayment, with the[~~. The~~] name and address of the lessee [~~must be~~] clearly legible; or

(2) electronic data, other than a photocopy or scan of a rental or lease contract, that contains the information required under Sections 521.460(c)(1), (2), and (3) covering the vehicle on the date of the nonpayment under this section.

(i-1) If the lessor timely provides the required information under Subsection (i), the lessee of the vehicle on the date of the violation is considered to be the owner of the vehicle for purposes of this section. The lessee is subject to prosecution for failure to pay the proper toll if the authority sends a notice of nonpayment to the lessee by first-class mail not later than the 30th day after the date of the receipt of the information from the lessor.

SECTION ____.06. Section 370.177, Transportation Code, is amended by amending Subsections (e), (g), and (i) and adding Subsection (e-1) to read as follows:

(e) It is an exception to the application of Subsection (b) or (d) that the registered owner of the vehicle is a lessor of the vehicle and not later than the 30th day after the date the notice of nonpayment is mailed provides to the authority:

(1) a copy of the rental, lease, or other contract

document covering the vehicle on the date of the nonpayment under Subsection (a), with the name and address of the lessee clearly legible; or

(2) electronic data, other than a photocopy or scan of a rental or lease contract, that contains the information required under Sections 521.460(c)(1), (2), and (3) covering the vehicle on the date of the nonpayment under Subsection (a).

(e-1) If the lessor provides the required information within the period prescribed under Subsection (e), the authority may send a notice of nonpayment to the lessee at the address provided under Subsection (e) [~~shown on the contract document~~] by first class mail before the 30th day after the date of receipt of the required information from the lessor. The lessee of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. The lessee shall pay a separate toll and administrative fee for each event of nonpayment. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

(g) An offense under Subsection (d), (e-1) [~~(e)~~], or (f) is a misdemeanor punishable by a fine not to exceed $250.

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

(1) evidence obtained by automated enforcement

technology that the authority determines is necessary, including automated enforcement technology described by Sections 228.058(a) and (b)<u>; or</u>

<u>(2) a copy of the rental, lease, or other contract document or the electronic data provided to the authority under Subsection (e) that shows the defendant was the lessee of the vehicle when the underlying event of nonpayment occurred</u>.

(2) Strike Section 8.2B.02 of the bill (page 116, lines 6-21).

(3) Renumber ARTICLES of the bill accordingly.



ADOPTED
MAY 08 2009
Robert Haney
Chief Clerk
House of Representatives

ENGROSSED RIDER NO. 95

FLOOR AMENDMENT NO. 121 BY: Pickett

#120

Amend the Phillips amendment to C.S.H.B. 300 on page 1, line 17, by inserting, between "data" and the comma, "in a format agreed to by the department and the lessor,".

#702

~~p. 337~~

363

1

ADOPTED

MAY 08 2009

Chief Clerk
House of Representatives

811568

ENGROSSED RIDER NO. 96

FLOOR AMENDMENT NO. 122 BY: Hallberg

Amend C.S.H.B. No. 300 (house committee report) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ___. STATE HIGHWAY TOLL PROJECTS

SECTION ____.01. Subchapter B, Chapter 228, Transportation Code, is amended by adding Section 228.060 to read as follows:

Sec. 228.060. UNIFORM SIGN PLAN. (a) The commission shall adopt a plan creating uniform standards for toll project signs that include, at a minimum, provisions for spacing, information, and design of the signs to allow a motor vehicle operator to clearly determine:

(1) that the operator is entering a tolled highway;

(2) any toll payment restriction, including a requirement of transponder-only payment; and

(3) the amount of the toll being collected at any toll booth or plaza.

(b) Signs containing information under Subsection (a)(1) or (2) must be positioned at a distance from the beginning of the tolled highway or payment restriction, as applicable, that allows a vehicle operator to safely determine not to enter the tolled highway or payment restricted segment.

09 MAY -6 PM 6:28
HOUSE OF REPRESENTATIVES

811698

ADOPTED

MAY 08 2009

Chief Clerk
House of Representatives

As Amended

ENGROSSED RIDER NO. 97

FLOOR AMENDMENT NO. 123 BY: Wayne Smith

Amend H.B. No. 300 by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ___. DETERMINATION OF PRIMACY FOR TOLL PROJECT DEVELOPMENT

SECTION ___.01. Subchapter A, Chapter 228, Transportation Code, is amended by adding Section 228.0112 to read as follows:

Sec. 228.0112. DETERMINATION OF PRIMACY FOR TOLL PROJECTS IN CERTAIN AREAS. (a) In this section "local toll project entity" means an entity, other than the department, that is authorized by law to acquire, design, construct, finance, operate, and maintain a toll project, including:

(1) a regional tollway authority under Chapter 366;

(2) a regional mobility authority under Chapter 370; or

(3) a county acting under Chapter 284.

(b) A transaction involving a local toll project entity under Section 228.011, Section 228.0111, or other applicable law that provides for a process under which a local toll project entity has the first option to develop, finance, construct and operate the toll project is not primarily commercial in nature but is an inherently governmental transaction whose purpose is to determine governmental jurisdiction, ownership, control, or other responsibilities with respect to a project.

(c) Any determination of value, including best value, under this Section 228.011, Section 228.0111, or other applicable federal or state law for a comprehensive development agreement or other public-private partnership arrangement involving a toll project for which a local toll project entity

has exercised its rights to develop the toll project and has complied with all applicable conditions in Section 228.011, Section 228.0111 or other applicable law that provides for a process under which the local toll project entity has the first option to develop, finance, construct and operate the toll project must take into consideration factors the entity determines appropriate, including factors related to:

(1) oversight of the toll project;

(2) maintenance and operations costs of the toll project;

(3) the structure and rates of tolls;

(4) economic development impacts of the toll project; and

(5) social and environmental benefits and impacts of the toll project.

(d) Notwithstanding Section 228.011(a), Section 228.011 applies to a local toll project entity and any toll project located in the territory of a local toll project entity following the expiration of the date provided in Section 228.0111(r), unless the toll project is subject to other law that provides for a process under which the local toll project entity has the first option to develop, finance, construct and operate the toll project. For the purposes of applying Section 228.011, the provisions of that section referencing a county are applicable to a local toll project entity to the same extent as a county, regardless of whether the local toll project entity is acting under Chapter 284, Chapter 366, or Chapter 370.



ADOPTED

MAY 08 2009

Chief Clerk
House of Representatives

ENGROSSED RIDER NO. 98

FLOOR AMENDMENT NO. 124 BY: Wayne Smith

Amend Amendment No. 123 by Smith of Harris to C.S.H.B. No. 300 (on page 317 of the prefiled amendment packet) as follows:

In ARTICLE __ of the bill, by adding the following SECTIONS, appropriately numbered, and renumbering existing SECTIONS in ARTICLE __ accordingly:

SECTION ___. Chapter 223, Transportation Code, is amended by adding Sections 223.2011 to read as follows:

Sec. 223.2011. CDA AUTHORITY IN POPULOUS COUNTY FOR CERTAIN PROJECTS.

(a) This Subsection applies only to (i) the portion of I-69 and the Trans-Texas Corridor and any successor project located in a county with a population of 3.3 million or more and any adjacent county, (ii) any comprehensive development agreement or related agreement entered into by the department in connection with such projects, and (iii) any toll or other projects in the region the revenues or assets of which are to be used in connection with the financing of such projects.

(b) As used in this Subsection the term "region" means a county with a population of 3.3 million or more and the counties that are adjacent to that county.

(c) Any payments, project savings, refinancing dividends,

and any other revenue, including surplus revenue, received by the commission or the department under the comprehensive development agreement or any related agreement, and any revenue attributable to any toll or other projects in the region, shall be used only to pay the costs or to finance the construction, maintenance, or operation of transportation projects or air quality projects in the region.

(d) No third party shall have any rights under the comprehensive development agreement or any related agreement that conflicts with, infringes on or impairs the rights of any county with respect to the development or operation of any project under Section 228.011 or Section 228.0111 or other applicable law that provides for a process under which the county has the first option to develop and operate a project.

(e) A comprehensive development agreement and any related agreement that includes a provision that grants a private entity the right to finance and develop a toll project in the region or collect and receive toll revenue from a project in the region shall not be effective unless the agreement meets the requirements of this Section.

811854

FLOOR AMENDMENT NO. 178 BY: Ken Paxton

ENGROSSED RIDER NO. 99

Amend Floor Amendment No. 123 to C.S.H.B. No. 300 by Wayne Smith (page 317, prefiled amendment packet), on page 2, immediately below line 27, by adding the following:

(e) For the purpose of determining primacy for developing toll projects under applicable law, the following local toll project entities may exercise the right of first option before the North Texas Tollway Authority:

(1) a municipality acting under Chapter 431;

(2) Collin County; and

(3) the Grayson County regional mobility authority.

ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

811838

AS ADOPTED Amended
MAY 08 2009
Robert Haney Chief Clerk House of Representatives

09 MAY -6 PM 9:34
HOUSE OF REPRESENTATIVES

ENGROSSED RIDER NO.100

FLOOR AMENDMENT NO. 125 BY: Joe Pickett

Amend C.S.H.B. No. 300 (house committee printing) as follows:

(1) Add the following appropriately numbered ARTICLE to the bill and renumber subsequent ARTICLES of the bill accordingly:

ARTICLE ___. TOLL PROJECT ENTITIES

SECTION __.01. Subchapter A, Chapter 284, Transportation Code, is amended by adding Section 284.014 to read as follows:

Sec. 284.014. SUNSET PROVISION. The authority granted to a county under this chapter is abolished September 1, 2013, unless continued by the legislature.

SECTION __.02. Subchapter B, Chapter 366, Transportation Code, is amended by adding Section 366.039 to read as follows:

Sec. 366.039. SUNSET PROVISION. A regional tollway authority created or established under this chapter, including an entity established as a regional tollway authority under Chapter 1171 (S.B. 370), Acts of the 75th Legislature, Regular Session, 1997, is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the authority is abolished September 1, 2013.

SECTION __.03. Subchapter B, Chapter 370, Transportation Code, is amended by adding Section 370.0314 to read as follows:

Sec. 370.0314. SUNSET PROVISION. A regional mobility authority created under this chapter or prior law is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the authority is abolished September 1, 2013.

SECTION ____.04. Chapter 371, Transportation Code, as added by Chapters 103 (H.B. 570) and 258 (S.B. 11), Acts of the 80th Legislature, Regular Session, 2007, is reenacted, redesignated as Chapter 372, Transportation Code, and amended to read as follows:

370

CHAPTER 372 [~~371~~]. PROVISIONS APPLICABLE TO MORE THAN ONE TYPE OF TOLL PROJECT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 372.001 [~~371.001~~]. DEFINITIONS. In this chapter:

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

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

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

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

(A) the department under Chapter 227 or 228;

(B) a regional tollway authority under Chapter 366;

(C) a regional mobility authority under Chapter 370; or

(D) a county under Chapter 284.

(3) "Local toll project entity" means a toll project entity other than the department.

SUBCHAPTER B. TOLL PROJECT OPERATION

Sec. 372.051 [~~371.051~~]. USE OF MOTOR VEHICLE REGISTRATION OR LICENSE PLATE INFORMATION. (a) A toll project entity may not use motor vehicle registration or other information derived from a license plate on a vehicle using a toll project, including information obtained by the use of automated enforcement technology described by Section 228.058, for purposes other than those related to:

(1) toll collection and toll collection enforcement; and

(2) law enforcement purposes on request by a law

enforcement agency [~~, subject to Section 228.058(d)~~].

(b) If a toll project entity enters into an agreement with an entity in another state that involves the exchange of motor vehicle registration or license plate information for toll collection or toll collection enforcement purposes, the agreement must provide that the information may not be used for purposes other than those described in Subsection (a).

Sec. 372.052 [~~371.001~~]. VEHICLES USED BY NONPROFIT DISASTER RELIEF ORGANIZATIONS. [~~(a) In this section:~~

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

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

[~~(B) subject to the jurisdiction of the department.~~

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

[~~(A) the department under Chapter 227 or 228;~~

[~~(B) a regional tollway authority under Chapter 366;~~

[~~(C) a regional mobility authority under Chapter 370; or~~

[~~(D) a county under Chapter 284.~~

[~~(b)~~] A toll project entity may not require a vehicle registered under Section 502.203 to pay a toll for the use of a toll project.

[Sections 372.053-372.100 reserved for expansion]

SUBCHAPTER C. CONSTRUCTION, IMPROVEMENT, AND MAINTENANCE

Sec. 372.101. EXPENDITURES FOR TOLL PROJECT LANDSCAPING. (a) For each contract for a toll project that is located in an area designated by the United States Environmental Protection Agency as

a nonattainment or near-nonattainment area under Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407), the toll project entity shall allocate to the district or districts in which the project is to be located an amount equal to one-half of one percent of the total amount to be spent under the contract for construction, maintenance, and improvement of the project to be used for landscaping improvements for the project or other projects in the district or districts.

(b) Landscaping improvements may include:

(1) planting indigenous or adapted trees and other plants that are suitable for the climate in the area; and

(2) preparing the soil and installing irrigation systems for the growth of trees and plants.

[Sections 372.102-372.150 reserved for expansion]

SUBCHAPTER D. LOCAL TOLL PROJECT ENTITY PROVISIONS

Sec. 372.151. AUDITS. The books and records of a local toll project entity for which the entity uses state highway right-of-way are subject to audit by the department and the state auditor.

Sec. 372.152. CONTRACTOR CONTRIBUTIONS PROHIBITED. A person who enters into or submits a proposal for a contract with a local toll project entity under this chapter or Chapter 228, 284, 366, or 370 may not make a political contribution to a person who is a member of the governing body of a local toll project entity.

Sec. 372.153. PROHIBITED ACTS OF LOCAL TOLL PROJECT ENTITIES AND INDIVIDUALS. (a) A local toll project entity may not use any money under its control to finance or otherwise support the candidacy of a person for an office in the legislative, executive, or judicial branch of state government or of the government of the United States. This prohibition extends to the direct or indirect employment of a person to perform an action described by this subsection.

(b) A board member or employee may not use a motor vehicle owned or leased by the local toll project entity for a purpose described by Subsection (a).

(c) A board member or employee may not use official authority or influence or permit the use of a program administered by the local toll project entity of which the person is an officer or employee to interfere with or affect the result of an election or nomination of a candidate or to achieve any other political purpose.

(d) A local toll project entity board member or employee may not coerce, attempt to coerce, or command the payment, loan, or contribution of any thing of value to a person or political organization for a political purpose or restrict, attempt to restrict, or prevent such a payment, loan, or contribution.

(e) For purposes of Subsection (c), a board member or employee does not interfere with or affect the results of an election or nomination if the individual's conduct is not prohibited by a law relating to the individual's office or employment and is not otherwise prohibited by law.

Sec. 372.154. EMPLOYMENT OF LOBBYIST. (a) A local toll project entity may not use any money under its control to employ, as a regular full-time or part-time or contract employee, a person who is required by Chapter 305, Government Code, to register as a lobbyist.

(b) A local toll project entity may not use any money under its control to pay, on behalf of the entity or a board member or employee of the entity, membership dues to an organization that pays part or all of the salary of a person who is required by Chapter 305, Government Code, to register as a lobbyist.

(c) A local toll project entity that violates this section is not eligible to receive additional state funds or exercise any

right of primacy for a toll road granted by the legislature to develop, finance, construct, and operate a project.

Sec. 372.155. LEGISLATIVE LOBBYING. (a) A local toll project entity may not use any money under its control to attempt to influence the passage or defeat of a legislative measure.

(b) This section does not prohibit a board member or employee from using the entity's resources to provide public information or to provide information responsive to a request.

(c) A local toll project entity that violates this section is not eligible to receive additional state funds or exercise any right of primacy for a toll road granted by the legislature to develop, finance, construct, and operate a project.

Sec. 372.156. TERMINATION OF EMPLOYMENT. A local toll project entity board member or employee who causes an employee to be discharged, demoted, or otherwise discriminated against for providing information under Section 372.155(b) or who violates Section 372.153(c) or (d) is subject to immediate termination of employment.

Sec. 372.157. COMPENSATION PROHIBITION. A local toll project entity may not use any money under its control to compensate a board member or employee who violates Section 372.153 or who causes or assists in the violation of Section 372.154 or 372.155(a), or an employee who is subject to termination under Section 372.156.

Sec. 372.158. ADVISORS, CONSULTANTS, AUDITORS, AND OTHER EXPERTS. A person may not serve as a consultant, or advisor, auditor, or other expert in connection with a contract of a local toll project entity if the person or the person's affiliates have a financial interest in the contract.

Sec. 372.159. NOTICE OF PROHIBITIONS. (a) A local toll project entity shall deliver to each board member and employee of

the entity a copy of Sections 372.153, 372.154, 372.155, 372.156, 372.157, and 372.158 and require a signed receipt on delivery. A new copy and receipt are required if one of those provisions is changed.

(b) A local toll project entity shall maintain receipts collected from current board members and employees under this section in a manner accessible for public inspection.

Sec. 372.160. TOLL PROJECT INFORMATION. (a) A local toll project entity may, notwithstanding Chapter 2113, Government Code, engage in marketing, advertising, and other activities to provide information relating to the status of pending or ongoing toll projects and may enter into contracts or agreements necessary to procure marketing, advertising, or informational services from outside service providers.

(b) This section does not authorize a local toll project entity to engage in marketing, advertising, or other activities for the purpose of influencing public opinion about the use of toll roads or the use of tolls as a financial mechanism.

Sec. 372.161. TERMINOLOGY FOR COUNTIES ACTING UNDER CHAPTER 284. For the application of this subchapter to a county acting under Chapter 284, a reference to a board member of a local toll project entity means a county commissioner of the county and a reference to administrative head of a local toll project entity means the county judge of the county.

SECTION __.05. The following sections of the Transportation Code are repealed:

(1) Section 228.004;

(2) Section 284.072;

(3) Section 366.181; and

(4) Section 370.180.

(2) Strike SECTION 7.02 of the bill (page 104, lines 5-24).



ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 126 BY: J. Davis

ENGROSSED RIDER NO.101

Amend Floor Amendment No. 125 to C.S.H.B. No. 300 by Pickett (page 174, prefiled amendment packet), on page 6 of the amendment (page 179, prefiled amendment packet), between lines 12 and 13, by inserting the following:

Sec. 372.1555. PROHIBITIONS ON PRIVATE ENTITIES IN CONNECTION WITH COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) The restrictions imposed by this subchapter on a local toll project entity, including Sections 372.152-372.155, apply equally to a private entity that seeks to enter into or that participates in a comprehensive development agreement or other public-private partnership in connection with a toll project.

(b) A private entity that knowingly violates this section is ineligible to enter into a comprehensive development agreement or other public-private partnership in connection with a toll project.

9.128.65 JD

ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 127 BY: HERRERO

ENGROSSED RIDER NO.102

Amend Floor Amendment No. 125 by Pickett to C.S.H.B. No. 300 (prefiled amendment packet page 174) on page 3, between lines 26 and 27, insert the following:

Sec. 372.053. VETERAN DISCOUNT PROGRAM. (a) A toll project entity may establish a discount program for electronic toll collection customers. The program must include free or discounted use of the entity's toll project by an electronic toll collection customer whose account relates to a vehicle registered:

(1) under Section 504.202;

(2) under Section 504.315(g); or

(3) by a person who has received the Medal of Honor.

(b) The legislature may appropriate funds from the general revenue fund to a toll project entity to defray the cost of providing free or discounted use of the entity's toll project under this section.

9.128.73 SLB

811840

Solomons/
Pickett

FLOOR AMENDMENT NO. 133 BY: _____

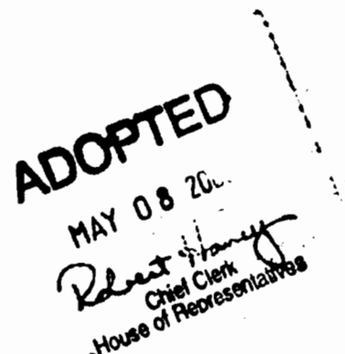
ENGROSSED RIDER NO.103 125

Amend the Pickett amendment (page 174 of the amendment packet) to C.S.H.B 300 as follows:

On page 1, strike lines 2 through 25.

ADOPTED
MAY 08 2009
Chief Clerk
House of Representatives





ENGROSSED RIDER NO.104

FLOOR AMENDMENT NO. 134 125 BY: Pickett

Amend the Pickett amendment to C.S.H.B. 300 as follows:

(1) Strike added Section 372.160, Transportation Code (page 7, lines 7-17), and substitute the following:

"Sec. 372.160. TOLL PROJECT INFORMATION. (a) A local toll project entity may, notwithstanding Chapter 2113, Government Code, engage in marketing, advertising, and other activities to provide information relating to pending or operating toll projects, including providing information concerning the methods of paying and collecting tolls, and may enter into contracts or agreements necessary to procure marketing, advertising, or informational services from outside service providers.

(b) This section does not authorize a local toll project entity to engage in marketing, advertising, or other activities for the purpose of influencing public opinion about the use of toll roads or the use of tolls as a financing mechanism.".

(2) Insert the following appropriately numbered section in the bill and renumber the remaining sections of the bill appropriately:

SECTION _.__. Section 372.160, Transportation Code, as added by this Act, applies only to a contract or agreement entered into or renewed by a local toll project entity on or

Pickett

after the effective date of this Act. A contract or agreement entered into or renewed before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

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#698

P/174

ADOPTED
MAY 08 2009
Robert Haney
Chief Clerk
House of Representatives

811842

NO. 135

BY:

ENGROSSED RIDER NO.105

Amend Amendment No. 125 to C.S.H.B. No. 300 by Pickett (page 174 of the pre-filed amendment packet) as follows:

(1) On page 1, line 11, strike "Section 366.039" and substitute "Sections 366.039, 366.040, and 366.041".

(2) On page 1, between lines 18 and 19, insert:

Sec. 366.040. ANNUAL AUDIT. A regional tollway authority described by Section 366.039 is subject to annual audit by the State Auditor's Office.

Sec. 366.041. ELECTRONIC CHECKING ACCOUNT TRANSACTION REGISTER. (a) This section applies only to a regional tollway authority described by Section 366.039 located in a county with a population of 250,000 or more.

(b) The regional tollway authority shall designate a person to maintain the transaction register for the authority's checking account in a searchable electronic spreadsheet format, such as a portable document format (PDF) or similar file type, in which the transaction register is readily available for purposes of Subsection (d). Except as provided by Subsection (c), the electronic checking account transaction register must include for each check written from the authority's account:

(1) the transaction amount;

(2) the name of the payee; and

(3) a statement of the purpose of the expenditure for which the check was written.

(b-1) Notwithstanding Subsection (b), beginning September 1, 2010, a regional tollway authority's checking account transaction register must contain the information required by Subsections (b)(1) and (2) for each check dated on or after August 1, 2010. Beginning September 1, 2011, an authority's electronic checking account transaction register must contain

the information required by Subsections (b)(1) through (3) for each check dated on or after August 1, 2011. This subsection expires October 1, 2011.

(c) A regional tollway authority may not include in the authority's electronic checking account transaction register a check issued to an authority employee in payment of:

(1) salary, wages, or an employment stipend; or

(2) a workers' compensation income benefit, medical benefit, death benefit, or burial benefit that is issued by a county operating as a self-insurer under Chapter 504, Labor Code.

(d) A regional tollway authority shall post the electronic checking account transaction register at all times on the authority's Internet website for viewing and downloading by interested persons. The authority may not charge a fee to a person who views or downloads the electronic checking account transaction register under this subsection.

(e) A regional tollway authority shall:

(1) update the electronic checking account transaction register at least once each month, not later than the 30th day after the closing date of the most recent monthly statement for the checking account; and

(2) maintain each transaction or listing in the electronic checking account transaction register on the authority's Internet website until the first anniversary of the date of the transaction or listing.

(f) The person designated to maintain the transaction register under Subsection (a) may consult with the comptroller in developing an electronic checking account transaction register under this section.

(g) This section does not apply to a regional tollway authority that maintains a check registry or a similar

comprehensive monthly financial report that was posted on the authority's Internet website for public viewing and downloading on or before August 1, 2010.

811676

ADOPTED As Amended

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MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 128 BY: Joe Pickett

ENGROSSED RIDER NO.106

Amend C.S.H.B. No. 300 by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES accordingly:

ARTICLE ___. REGIONAL MOBILITY AUTHORITIES

SECTION ___.01. Section 370.003, Transportation Code, is amended by amending Subdivision (1) and adding Subdivision (9-b) to read as follows:

(1) "Authority" means a regional mobility authority, including a municipal mobility authority, organized under this chapter or under Section 361.003, as that section existed before June 22, 2003.

(9-b) "Municipal mobility authority" means a regional mobility authority created under Section 370.031(c).

SECTION ___.02. Section 370.031(c), Transportation Code, is amended to read as follows:

(c) A municipality that borders the United Mexican States and has a population of 105,000 or more may [~~has the same authority as a county, within its municipal boundaries, to~~] create and participate in an authority. A municipality creating or participating in an authority has the same powers and duties as a county participating in an authority, the governing body of the municipality has the same powers and duties as the commissioners court of a county participating in an authority, and an elected member of the municipality's governing body has the same powers and duties as a commissioner of a county that is participating in an authority. Subsections (a) and (b) do not apply to an authority created under this subsection, and approval of the commission is not required for the creation of an authority under this subsection.

9.126.736 jts

SECTION ___.03. Section 370.038(a), Transportation Code, is amended to read as follows:

(a) The commission shall adopt rules that:

(1) govern the creation of an authority other than a municipal mobility authority;

(2) govern the commission's approval of a project under Section 370.187 and other commission approvals required by this chapter;

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

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

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

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

SECTION ___.04. Section 370.251, Transportation Code, is amended by amending Subsections (a), (a-1), and (j) and adding Subsection (a-2) to read as follows:

(a) Except as provided by Subsections [~~Subsection~~] (a-1) and (a-2), the governing body of an authority is a board of directors consisting of representatives of each county in which a transportation project of the authority is located or is proposed to be located. The commissioners court of each county that initially forms the authority shall appoint at least two directors to the board. Additional directors may be appointed to the board at the time of initial formation by agreement of the counties creating the authority to ensure fair representation of political subdivisions in the counties of the

authority that will be affected by a transportation project of the authority, provided that the number of directors must be an odd number. The commissioners court of a county that is subsequently added to the authority shall appoint one director to the board. Except as provided by Subsection (a-2), the [~~The~~] governor shall appoint one director to the board who shall serve as the presiding officer of the board and shall appoint an additional director to the board if an appointment is necessary to maintain an odd number of directors on the board.

(a-1) To be eligible to serve as director of a municipal mobility [~~an~~] authority [~~created by a municipality~~] an individual:

(1) may be a representative of an entity that also has representation on a metropolitan planning organization in the region where the municipality is located; and

(2) is required to be a resident of Texas regardless of whether the metropolitan planning organization's geographic area includes territory in another state.

(a-2) The governing body of a municipality that creates a municipal mobility authority serves as the board of the authority, with the presiding officer of the governing body of the municipality serving as the presiding officer of the board.

(j) The commission may refuse to authorize the creation of an authority if the commission determines that the proposed board will not fairly represent political subdivisions in the counties of the authority that will be affected by the creation of the authority. This subsection does not apply to a municipal mobility authority. Commission approval is not required for the proposed board of a municipal mobility authority.

SECTION ___.05. Section 370.331, Transportation Code, is amended by amending Subsection (a) and adding Subsection (d) to

read as follows:

(a) Except as provided by Subsection (d), an [~~An~~] authority may not be dissolved unless the dissolution is approved by the commission.

(d) A municipal mobility authority may not be dissolved unless approved by the governing body of the municipality that created the authority. A board may submit a request to the governing body of the municipality for approval to dissolve and the governing body of the municipality may approve the request only if:

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

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

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

SECTION ___.06. Section 370.332, Transportation Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsection (c), the [~~The~~] commission by order may require an authority to dissolve if the commission determines that the authority has not substantially complied with the requirements of a commission rule or an agreement between the department and the authority.

(c) The commission may not order the dissolution of a municipal mobility authority. The governing body of a

municipality that created a municipal mobility authority may by resolution or ordinance require an authority to dissolve if the governing body of the municipality determines that the authority has not substantially complied with the requirements of an agreement between the municipality and the authority. The governing body of the municipality may not require dissolution unless:

(1) the conditions described by Sections 370.331(d)(1) and (2) have been met; and

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

SECTION ___.07. (a) The changes in law made by this article to Chapter 370, Transportation Code, apply to a regional mobility authority previously created under Section 370.031(c), Transportation Code, and existing on the effective date of this Act.

(b) The term of a director of a municipal mobility authority, as that term is defined by Section 370.003(9-b), Transportation Code, as added by this article, expires on the effective date of this Act.



ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

ENGROSSED RIDER NO.107

FLOOR AMENDMENT NO. 129 BY: Pickett

Amend Amendment No. 128 to C.S.H.B. 300 by Pickett (page 287 of the amendment packet) as follows:

(1) On page 2, line 20 between "(a-1)" and "and" insert "(g)".

(2) On page 3, line 23 by adding the following before (j):

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

(1) an elected official, except in the case of an individual who serves as a director of a municipal mobility authority;

(2) a person who is not a resident of a county within the geographic area of the authority;

(3) a department employee;

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

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

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p.287

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ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 130 BY: Joe Pickett

ENGROSSED RIDER NO.108

Amend C.S.H.B. No. 300 (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ___. COMPREHENSIVE DEVELOPMENT AGREEMENTS

SECTION ___.01. Section 371.003, Transportation Code, is amended to read as follows:

Sec. 371.103. PROHIBITION AGAINST NONCOMPETITION PROVISIONS [~~LIMITING OR PROHIBITING CONSTRUCTION OF TRANSPORTATION PROJECTS~~]. (a) A comprehensive development agreement may not contain a provision that limits or prohibits the construction, reconstruction, expansion, rehabilitation, operation, or maintenance of a highway or other transportation project, as that term is defined by Section 370.003, by the toll project entity or other governmental entity, or by a private entity under a contract with the toll project entity or other governmental entity.

(b) A [~~Except as provided by Subsection (c), a~~] comprehensive development agreement may not contain a provision authorizing the toll project entity to compensate the private participant in the agreement for the loss of toll revenues attributable to the construction of a highway project by the entity [~~of a limited access highway project located within an area that extends up to four miles from either side of the centerline of the project developed under the agreement, less the private participant's decreased operating and maintenance costs attributable to the highway project, if any~~].

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

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

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

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

~~(4) a transportation project that provides a mode of transportation that is not included in the project that is the subject of the comprehensive development agreement.~~

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

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

811708

ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

Amended

ENGROSSED RIDER NO.109

FLOOR AMENDMENT NO. 131 BY: Phillips

Amend C.S.H.B. 300 by adding the new sections, appropriately numbered to read as follows:

SUBCHAPTER E. COMPREHENSIVE DEVELOPMENT AGREEMENTS

Sec. [~~223.201~~]371.301. AUTHORITY. (a) Subject to Section [~~223.202~~]371.302, [~~the department~~] a toll project entity may enter into a comprehensive development agreement with a private entity to design, develop, finance, construct, maintain, repair, operate, extend, or expand a:

(1) toll project;

(2) facility or a combination of facilities on the Trans-Texas Corridor;

(3) state highway improvement project that includes both tolled and nontolled lanes and may include nontolled appurtenant facilities;

(4) state highway improvement project in which the private entity has an interest in the project; or

(5) state highway improvement project financed wholly or partly with the proceeds of private activity bonds, as defined by Section 141(a), Internal Revenue Code of 1986.

(b) In this subchapter, "comprehensive development agreement" means an agreement that, at a minimum, provides for the design and construction, rehabilitation, expansion, or

improvement of a project described in Subsection (a) and may also provide for the financing, acquisition, maintenance, or operation of a project described in Subsection (a).

(c) [~~The department~~] A toll project entity may negotiate provisions relating to professional and consulting services provided in connection with a comprehensive development agreement.

(d) Money disbursed by the department under a comprehensive development agreement is not included in the amount:

(1) required to be spent in a state fiscal biennium for engineering and design contracts under Section 223.041; or

(2) appropriated in Strategy A.1.1. Plan/Design/Manage of the General Appropriations Act for that biennium for the purpose of making the computation under Section 223.041.

(e) [~~The department~~] A toll project entity may authorize the investment of public and private money, including debt and equity participation, to finance a function described by this section.

(f) [~~Except as provided by Subsections (h) and (i), the~~] The authority to enter into comprehensive development agreements provided by this section expires on August 31, [~~2009~~]2015.

(g) The department may combine in a comprehensive development agreement under this subchapter a toll project and a rail facility as defined by Section 91.001.

~~(h) Subsection (f) does not apply to a comprehensive development agreement that does not grant a private entity a right to finance a toll project or to a comprehensive development agreement in connection with a project:~~

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

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

~~(3) for which the department has issued a request for qualifications before May 1, 2007.~~

~~(i) The authority to enter into a comprehensive development agreement for a project exempted from Subsection (f) or Section 223.210(b) expires August 31, 2011.~~

Sec. [~~223.202~~] 371.302. LIMITATION ON DEPARTMENT FINANCIAL PARTICIPATION. The amount of money disbursed by the department from the state highway fund and the Texas mobility fund during a federal fiscal year to pay the costs under comprehensive development agreements may not exceed 40 percent of the

obligation authority under the federal-aid highway program that is distributed to this state for that fiscal year.

Sec. [~~223.203~~] 371.303. PROCESS FOR ENTERING INTO COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) If [~~the department~~] a toll project entity enters into a comprehensive development agreement, [~~the department~~] a toll project entity shall use a competitive procurement process that provides the best value for [~~the department. The department~~] a toll project entity. A toll project entity may accept unsolicited proposals for a proposed project or solicit proposals in accordance with this section.

(b) [~~The department~~] A toll project entity shall establish rules and procedures for accepting unsolicited proposals that require the private entity to include in the proposal:

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

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

(3) any other information [~~the department~~] a toll project entity considers relevant or necessary.

(c) [~~The department~~] A toll project entity shall publish a notice advertising a request for competing proposals and qualifications in the Texas Register that includes the criteria to be used to evaluate the proposals, the relative weight given

to the criteria, and a deadline by which proposals must be received if:

(1) [~~the department~~] a toll project entity decides to issue a request for qualifications for a proposed project; or

(2) [~~the department~~] a toll project entity authorizes the further evaluation of an unsolicited proposal.

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

(e) [~~The department~~] A toll project entity may interview a private entity submitting an unsolicited proposal or responding to a request under Subsection (c). [~~The department~~] A toll project entity shall evaluate each proposal based on the criteria described in the request for competing proposals and qualifications and may qualify or shortlist private entities to submit detailed proposals under Subsection (f). [~~The department~~] A toll project entity must qualify or shortlist at least two private entities to submit detailed proposals for a project under Subsection (f) unless [~~the department~~] a toll project entity does not receive more than one proposal or one response to a request under Subsection (c).

(e-1) Notwithstanding the requirements of this section, [~~the department~~] a toll project entity may prequalify a private entity to submit a detailed proposal to provide services under a

design-build contract. [~~The department~~] A toll project entity is not required to publish a request under Subsection (c) for a design-build contract, and may enter into a design-build contract based solely on an evaluation of detailed proposals submitted in response to a request under Subsection (f) by prequalified private entities. The [~~commission~~]governing body of a toll project entity shall adopt rules establishing criteria for the prequalification of a private entity that include the precertification requirements applicable to providers of engineering services and the qualification requirements for bidders on highway construction contracts. Rules for design-build projects adopted pursuant to this subsection shall also provide for an expedited selection process that includes design innovation as a selection criterion.

(e-2) In this section, "design-build contract" means a comprehensive development agreement that includes the design and construction of a turnpike project, does not include the financing of a turnpike project, and may include the acquisition, maintenance, or operation of a turnpike project.

(f) [~~The department~~] A toll project entity shall issue a request for detailed proposals from all private entities qualified or shortlisted under Subsection (e) or prequalified under Subsection (e-1) if [~~the department~~] a toll project entity 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) engineering or architectural designs;

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

(5) a financial plan, including costing methodology and cost proposals; or

(6) any other information the department considers relevant or necessary.

(f-1) A private entity responding to a request for detailed proposals issued under Subsection (f) may submit alternative proposals based on comprehensive development agreements having different terms, with the alternative terms in multiples of 10 years, ranging from 10 years from the later of the date of final acceptance of the project or the start of revenue operations by the private entity to 50 years from the later of the date of final acceptance of the project or the start of revenue operations by the private entity, not to exceed a total term of 52 years or any lesser term provided in a comprehensive development agreement.

(g) In issuing a request for proposals under Subsection (f), [~~the department~~] a toll project entity may solicit input from entities qualified under Subsection (e) or any other person. [~~The department~~] A toll project entity may also solicit input regarding alternative technical concepts after issuing a request under Subsection (f).

(h) [~~The department~~] A toll project entity shall evaluate each proposal based on the criteria described in the request for detailed proposals and select the private entity whose proposal offers the apparent best value to [~~the department~~] a toll project entity.

(i) [~~The department~~] A toll project entity may enter into negotiations with the private entity whose proposal offers the apparent best value.

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

(k) [~~The department~~] A toll project entity may withdraw a request for competing proposals and qualifications or a request for detailed proposals at any time. [~~The department~~] A toll

project entity may then publish a new request for competing proposals and qualifications.

(l) [~~The department~~] A toll project entity may require that an unsolicited proposal be accompanied by a nonrefundable fee sufficient to cover all or part of its cost to review the proposal.

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

(1) [~~the department~~] a toll project entity owns with the unsuccessful proposer jointly the rights to, and may make use of any work product contained in, the proposal, including

the technologies, techniques, methods, processes, ideas, and information contained in the project design; and

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

(n) [~~The department~~] A toll project entity may prescribe the general form of a comprehensive development agreement and may include any matter the department considers advantageous to the department. [~~The department~~] A toll project entity and the private entity shall finalize the specific terms of a comprehensive development agreement.

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

Sec. [~~223.204~~] 371.304. CONFIDENTIALITY OF INFORMATION. (a) To encourage private entities to submit proposals under this subchapter, the following information is confidential, is not subject to disclosure, inspection, or copying under Chapter 552, Government Code, and is not subject to disclosure, discovery, subpoena, or other means of legal compulsion for its release until a final contract for a proposed project is entered into:

(1) all or part of a proposal that is submitted by a private entity for a comprehensive development agreement, except information provided under Sections 223.203(b)(1) and (2), unless the private entity consents to the disclosure of the information;

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

(3) information created or collected by the department or its agent during consideration of a proposal for a comprehensive development agreement.

(b) After [~~the department~~] a toll project entity completes its final ranking of proposals under Section [~~223.203~~] 371.303(h), the final rankings of each proposal under each of the published criteria are not confidential.

Sec. [~~223.205~~] 371.305. PERFORMANCE AND PAYMENT SECURITY. (a) Notwithstanding Section 223.006 and the requirements of Subchapter B, Chapter 2253, Government Code, [~~the department~~] a toll project entity shall require a private entity entering into a comprehensive development agreement under this subchapter to provide a performance and payment bond or an alternative form of security in an amount sufficient to:

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

(2) protect:

(A) [~~the department~~] a toll project entity; and

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

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

(c) If [~~the department~~] a toll project entity determines that it is impracticable for a private entity to provide security in the amount described by Subsection (b), [~~the department~~] a toll project entity shall set the amount of the bonds or the alternative forms of security.

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

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

(f) In addition to or instead of a performance and payment bond, the department may require one or more of the following alternative forms of security:

(1) a cashier's check drawn on a financial entity specified by [~~the department~~] a toll project entity;

(2) a United States bond or note;

(3) an irrevocable bank letter of credit; or

(4) any other form of security determined suitable by [~~the department~~] a toll project entity.

(g) [~~The department~~] A toll project entity by rule shall prescribe requirements for an alternative form of security provided under this section.

Sec. [~~223.206~~] 371.306. OWNERSHIP OF HIGHWAY. (a) A state highway or another facility described by Section [~~223.201~~] 371.301(a) that is the subject of a comprehensive development agreement with a private entity, including the facilities acquired or constructed on the project, is public property and shall be owned by [~~the department~~] a toll project entity.

(b) Notwithstanding Subsection (a), [~~the department~~] a toll project entity may enter into an agreement that provides for the lease of rights-of-way, the granting of easements, the issuance of franchises, licenses, or permits, or any lawful uses to enable a private entity to construct, operate, and maintain a project, including supplemental facilities. At the termination of the agreement, the highway or other facilities are to be in a state of proper maintenance as determined by [~~the department~~] a toll project entity and shall be returned to [~~the department~~] a

toll project entity in satisfactory condition at no further cost.

(c) A highway asset or toll project that is used or leased by a private entity under Section 202.052 or 228.053 for a commercial purpose is not exempt from ad valorem taxation and is subject to local zoning regulations and building standards.

(d) [~~The department~~] A toll project entity may not enter into a comprehensive development agreement with a private entity under this subchapter or Section 227.023 that provides for the lease, license, or other use of rights-of-way or related property by the private entity for the purpose of constructing, operating, or maintaining an ancillary facility that is used for commercial purposes.

Sec. [~~223.207~~] 371.307. LIABILITY FOR PRIVATE OBLIGATIONS. [~~The department~~] A toll project entity may not incur a financial obligation for a private entity that designs, develops, finances, constructs, maintains, or operates a state highway or other facility under this subchapter. The state or a political subdivision of the state is not liable for any financial or other obligations of a project solely because a private entity constructs, finances, or operates any part of the project.

Sec. [~~223.208~~] 371.308. TERMS OF PRIVATE PARTICIPATION. (a) [~~The department~~] A toll project entity

shall negotiate the terms of private participation under this subchapter, including:

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

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

(3) acceptable safety and policing standards; and

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

(b) A comprehensive development agreement entered into under this subchapter or Section 227.023(c) may include any provision that [~~the department~~] a toll project entity considers appropriate, including provisions:

(1) providing for the purchase by [~~the department~~] a toll project entity, under terms and conditions agreed to by the parties, of the interest of a private participant in the comprehensive development agreement and related property, including any interest in a highway or other facility designed, developed, financed, constructed, operated, or maintained under the comprehensive development agreement;

(2) establishing the purchase price for the interest of a private participant in the comprehensive development

agreement and related property, which price may be determined in accordance with the methodology established by the parties in the comprehensive development agreement;

(3) providing for the payment of obligations incurred pursuant to the comprehensive development agreement, including any obligation to pay the purchase price for the interest of a private participant in the comprehensive development agreement, from any lawfully available source, including securing such obligations by a pledge of revenues of the [~~commission~~] governing body of the toll project entity or ~~the department~~] a toll project entity derived from the applicable project, which pledge shall have such priority as [~~the department~~] a toll project entity may establish;

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

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

(6) restricting the right of the [~~commission~~] governing body of the toll project entity or [~~the department~~] a toll project entity to terminate the private participant's right to operate and collect revenue from the project unless and until any applicable termination payments have been made.

(c) The department may enter into a comprehensive development agreement under this subchapter or under Section

227.023(c) with a private participant only if the project is identified in the department's unified transportation program or is located on a transportation corridor identified in the statewide transportation plan.

(d) Section [~~223.207~~] 371.307 does not apply to the obligations of the department under a comprehensive development agreement.

(e) Notwithstanding anything in Section 201.112 or other law to the contrary, and subject to compliance with the dispute resolution procedures set out in the comprehensive development agreement, an obligation of the [~~commission~~] governing body of the toll project entity or [~~the department~~] a toll project entity under a comprehensive development agreement entered into under this subchapter or Section 227.023(c) to make or secure payments to a person because of the termination of the agreement, including the purchase of the interest of a private participant or other investor in a project, may be enforced by mandamus against [~~the commission , the department~~] the governing body of a toll project entity, a toll project entity, and the comptroller in a district court of Travis County, and the sovereign immunity of the state is waived for that purpose. The district courts of Travis County shall have exclusive jurisdiction and venue over and to determine and adjudicate all issues necessary to adjudicate any action brought under this

subsection. The remedy provided by this subsection is in addition to any legal and equitable remedies that may be available to a party to a comprehensive development agreement.

(f) A comprehensive development agreement entered into under this subchapter or Section 227.023(c) and any obligations incurred, issued, or owed under the agreement does not constitute a state security under Chapter 1231, Government Code.

(g) If [~~the department~~] a toll project entity enters into a comprehensive development agreement with a private participant that includes the collection by the private participant of tolls for the use of a toll project, the private participant shall submit to [~~the department~~] a toll project entity for approval:

(1) the methodology for:

(A) the setting of tolls; and

(B) increasing the amount of the tolls;

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

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

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

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

(h) A comprehensive development agreement with a private participant that includes the collection by the private participant of tolls for the use of a toll project may be for a term not longer than 50 years from the later of the date of final acceptance of the project or the start of revenue operations by the private participant, not to exceed a total term of 52 years. The comprehensive development agreement must contain an explicit mechanism for setting the price for the purchase by [~~the department~~] a toll project entity of the interest of the private participant in the comprehensive development agreement and related property, including any interest in a highway or other facility designed, developed, financed, constructed, operated, or maintained under the agreement.

Sec. [~~223.209~~] 371.309. RULES, PROCEDURES, AND GUIDELINES GOVERNING SELECTION AND NEGOTIATING PROCESS. (a) The [~~commission~~] governing body of a toll project entity shall adopt rules, procedures, and guidelines governing selection of a developer for a comprehensive development agreement and negotiations to promote fairness, obtain private participants in projects, and promote confidence among those participants. The rules must contain criteria relating to the qualifications of the participants and the award of the contracts.

(b) [~~The department~~] A toll project entity shall have up-to-date procedures for participation in negotiations under this subchapter.

(c) [~~The department~~] A toll project entity has exclusive judgment to determine the terms of an agreement.

SECTION__. The following provisions of the Transportation Code are repealed:

(1) Sections 366.401-366.408;

(2) Sections 370.305-370.312; and

(3) Sections 284.003(a)(7).

(2) Renumber SECTIONS of the bill appropriately.

Pg 362

ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives



ENGROSSED RIDER NO.110

Amend Floor Amendment 132 to CSHB 300

By: Chisum H.B. No. 2354

As follows:

~~A BILL TO BE ENTITLED~~

~~AN ACT~~

~~relating to county road materials.~~

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

SECTION 1. Subsection 201.706(1), Transportation Code, is amended to read as follows:

(1) Provide that the total annual value of assistance under this section is:

[~~(A) at least $12 million per year for fiscal years 1998 and 1999; and~~

~~(B)~~] at least [~~$6~~] 18 ~~$24~~ million per year for a fiscal year[~~other than 1998 or 1999~~].

SECTION 2. This Act takes effect September 1, 2009.

413



ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

AS Amended

09 MAY -6 PM 9:08

HOUSE OF REPRESENTATIVES

BY:

ENGROSSED RIDER NO.11

FLOOR AMENDMENT NO. 136

Amend C.S.H.B. No. 300 by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ___. PROVISIONS APPLICABLE TO MORE THAN ONE TYPE OF TOLL PROJECT

SECTION ___.01. Chapter 372, Transportation Code, is amended by adding Section 372.053 to read as follows:

Sec. 372.053. USE OF TRANSPONDERS. (a) In this section, "Transponder" means a device, placed on or in a motor vehicle, that is capable of transmitting information used to assess or to collect tolls.

(b) A toll project entity shall waive any fees and penalties for the failure to pay a toll while driving or towing a vehicle through a toll booth or toll plaza if:

(1) a transponder registered to the vehicle or associated with the vehicle's license plate was used when the vehicle was driven or towed through the toll booth or plaza;

(2) the failure to collect the tolls is due solely to transponder or toll equipment error, including failure to read a transponder at a transponder toll plaza;

(3) the transponder was properly installed; and

(4) the transponder was not damaged by the person to the extent that it could not collect the tolls.

(c) A toll project entity that waives fees and penalties under Subsection (b) may notify the registered owner of the vehicle to which the transponder is registered that the transponder must be replaced, and is not required to waive subsequent fees and

penalties for tolls not paid after the owner has been given a reasonable opportunity to replace the transponder.

(d) Subsection (b) does not relieve the registered owner of liability for payment of the toll.

(e) A toll project entity shall waive any fees and penalties for driving or towing a vehicle through a toll booth or toll plaza while using a transponder on or in a motor vehicle to which the transponder was not previously registered if:

(1) the tolls incurred by the person are collected successfully by transponder; and

(2) the vehicle is of the same toll classification as the vehicle to which the transponder was registered.

811800

FLOOR AMENDMENT NO. 137 BY: Hochberg

ENGROSSED RIDER NO.112

Amend Amendment No. 136 to C.S.H.B. No. 300 by Hochberg (page 136 of the pre-filed amendment packet) in added Section 372.053(b)(1), Transportation Code, by striking "vehicle or associated" and substitute "vehicle and associated".

ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

416

9.127.611 KCR

811681

ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 38 BY:

ENGROSSED RIDER NO.113

HOUSE OF REPRESENTATIVES

Amend C.S.H.B. No. 300 by inserting in the appropriate ARTICLE the following appropriately-numbered SECTION and renumbering any subsequent SECTIONS accordingly:

SECTION ___. Chapter 391, Transportation Code, is amended by adding Section 391.2521 to read as follows

Sec. 391.2521. ERECTING OUTDOOR ADVERTISING FOR SEXUALLY ORIENTED BUSINESS WITHOUT PERMIT. (a) A person may not, without first obtaining a permit from the commission, erect or maintain outdoor advertising that advertises a sexually-oriented business that is adjacent to or visible from:

(1) Interstate 35 between the department's information center in Gainesville and the Texas-Oklahoma border; and

(2) U.S. Highways 69 and 75 between the department's information center in Denison and the Texas-Oklahoma border;

(b) The department shall issue a permit to a person under this section only if the person can show that the advertising:

(1) does not endanger the health, safety, welfare, morals, convenience, and enjoyment of the traveling public and the protection of the public investment in the interstate and primary highways systems and in travel information centers; and

(2) is not a public nuisance.

(c) The department shall adopt rules to administer this section, including permit fees, forms, and application process.

(d) As used in this section, "sexually oriented business" has the meaning assigned by Section 243.002, Local Government Code.

417

X

811673

ENGROSSED RIDER NO.114

09 MAY -5 PM 9:46

ADOPTED AS Amended

MAY 08 2009

HOUSE OF REPRESENTATIVES

Robert Haney

Chief Clerk

House of Representatives

FLOOR AMENDMENT NO. 139 BY: Phillips

Amend C.S.H.B. No. 300 (House committee printing) by adding the following appropriately numbered SECTIONS to ARTICLE 6 of the bill and renumbering subsequent SECTIONS of that ARTICLE accordingly:

SECTION ____. Subtitle H, Title 6, Transportation Code, is amended by adding Chapter 399 to read as follows:

CHAPTER 399. OUTDOOR ADVERTISING ADVISORY COMMITTEE

Sec. 399.001. DEFINITIONS. In this chapter:

(1) "Advisory committee" means the outdoor advertising advisory committee established by this chapter.

(2) "Outdoor sign" includes the meaning assigned to "outdoor advertising" by Section 391.001 and the meaning assigned to "off-premise sign" by Section 394.001.

Sec. 399.002. OUTDOOR ADVERTISING ADVISORY COMMITTEE. The department shall establish an outdoor advertising advisory committee. The advisory committee shall provide advice, information, and recommendations to the commission regarding rules and regulations related to outdoor signs along highways and roads in this state.

Sec. 399.003. APPOINTMENT. The membership of the advisory committee shall be as follows:

(1) one member of the general public appointed by the governor;

(2) one member of the general public appointed by the lieutenant governor;

(3) one member of the general public appointed by the speaker of the house of representatives; and

(4) 11 members appointed by the commission as follows:

(A) two representatives from organizations that

promote the scenic values of this state;

(B) two representatives from the outdoor sign industry;

(C) one representative from an organization that serves the interests of counties in this state;

(D) one representative from an organization that promotes landowner property rights in this state;

(E) two representatives from organizations that promote travel, tourism, and hospitality industries in this state;

(F) one representative from an organization that promotes businesses that use outdoor signs; and

(G) two members of the general public.

Sec. 399.004. CHAIR; TERMS. (a) The advisory committee shall elect one member to serve as chairperson.

(b) A member of the advisory committee serves a two-year term that begins at the beginning of the state fiscal year in which the member is appointed.

(c) A majority of the members of the advisory committee is a quorum for the transaction of business by the advisory committee.

(d) An action by the advisory committee, including a formal recommendation to the commission, requires the approval of a majority of the quorum.

Sec. 399.005. POWERS AND DUTIES. (a) No action by the advisory committee is intended to conflict with the federal Highway Beautification Act of 1965 (23 U.S.C. Sections 131, 136, and 319).

(b) The advisory committee shall submit a biennial report to the house and senate committees with jurisdiction over transportation. The report shall include recommendations to the legislature for any necessary statutory changes and a summary of the recommendations the committee has made to the department during the preceding two years. The first report must be submitted not

later than November 1, 2010.

(c) The commission may adopt rules necessary for the operation of the advisory committee.

Sec. 399.006. COMPENSATION. A member of an advisory committee may not be compensated by the commission or the department for service and is not entitled to reimbursement for any expense incurred in the performance of committee service.

Sec. 399.007. OPEN RECORDS AND COOPERATION WITH STATE AGENCIES. (a) All written or other recorded information maintained by the advisory committee or advisory committee members regarding the business of the advisory committee is public information and is subject to Chapter 552, Government Code.

(b) Meetings of the advisory committee are subject to Chapter 551, Government Code.

(c) All agencies of this state shall assist the advisory committee in the performance of its duties. To the extent permitted by laws relating to confidentiality, an agency of this state shall furnish the advisory committee with any information or advice requested by a member of the advisory committee, if that member considers the information necessary to the performance of the duties of the advisory committee.

(d) The department shall provide administrative staff and support required for operation of the advisory committee.

Sec. 399.008. EXPIRATION OF CHAPTER. This chapter expires August 31, 2011.

811772

FLOOR AMENDMENT NO. 140 BY: Pickett

ENGROSSED RIDER NO.115

Amend Amendment No. 139 to C.S.H.B. No. 300 by Phillips (page 258 of the amendment packet) on page 3 of the amendment as follows:

(1) On lines 8-9 strike "RECORDS AND COOPERATION WITH STATE AGENCIES" and substitute "RECORDS; STAFF".

(2) Strike lines 15-21.

(2) On line 22 strike "(d)" and substitute "(c)".

ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

~~P258~~

~~#673~~

421

9.127.394 JTS

811747

FLOOR AMENDMENT NO. 141 BY: Phillips

ENGROSSED RIDER NO.116

Amend Floor Amendment No. 139 by Phillips to C.S.H.B. No. 300 as follows:

(1) On page 1, line 29, strike "two" and substitute "three".

(2) On page 2, line 2, strike "two" and substitute "three".

(3) On page 2, line 9, after the underlined semicolon, add "and".

(4) On page 2, line 11, strike "; and" and substitute ".".

(5) On page 2, strike line 12.

ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

422

9.127.268 SLB

ENGROSSED RIDER NO.117



ADOPTED

MAY 08 2009

Chief Clerk
House of Representatives

FILED
2009 MAY -5 PM 9:28
HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. 142 BY: Wayne Smith

Amend C.S.H.B. No. 300 (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE __. TEXAS LOCAL PARTICIPATION TRANSPORTATION PROGRAM

SECTION ____. Chapter 403, Government Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. TEXAS LOCAL PARTICIPATION TRANSPORTATION PROGRAM

Sec. 403.351. DEFINITIONS. In this section:

(1) "Department" means the Texas Department of Transportation.

(2) "Fund" means the Texas local participation transportation fund.

(3) "Local project sponsor" means:

(A) a municipality;

(B) a county, including a county acting under Chapter 284, Transportation Code;

(C) a regional mobility authority under Chapter 370, Transportation Code; or

(D) a regional tollway authority under Chapter 366, Transportation Code.

(4) "Program" means the Texas Local Participation Transportation Program created under this subchapter.

(5) "Project" means a tolled or non-tolled facility:

(A) authorized under Section 222.104, Transportation Code; and

(B) sponsored by a local project sponsor.

(6) "Total project cost" in connection with a project means the estimated costs of:

(A) planning, environmental assessment,

regulatory permitting and compliance, design, construction, construction oversight and inspection, right-of-way acquisition, utility relocation, program management, legal services, and financial advisory services; and

(B) financing, but only to the extent financing costs relate to the securitization of amounts received from the fund and received under an agreement made under Section 222.104, Transportation Code.

Sec. 403.352. TEXAS LOCAL PARTICIPATION TRANSPORTATION FUND. (a) The Texas local participation transportation fund is a dedicated account in the general revenue fund.

(b) The fund is composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) gifts and grants contributed to the fund;

(3) interest and earnings received from investments of money in the fund; and

(4) money repaid by a local project sponsor under a loan made under this subchapter.

(c) Money in the fund may be used only for the administration of this subchapter and may not be appropriated for any other purpose.

(d) Sections 403.095 and 404.071 do not apply to the fund.

Sec. 403.353. GIFTS AND GRANTS. The comptroller may solicit and accept gifts and grants to the fund. A gift or grant to the fund may be used in the same manner as other money in the fund, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

Sec. 403.354. RULEMAKING AUTHORITY. The comptroller may adopt rules relating to the implementation of the program and any other rules necessary to accomplish the purposes of this

subchapter.

Sec. 403.355. TEXAS LOCAL PARTICIPATION TRANSPORTATION PROGRAM. (a) The comptroller shall administer a program to encourage local project sponsors to participate in the delivery of eligible projects by providing the sponsors disbursements from the fund.

(b) In administering the program, the comptroller shall develop a process for certifying the eligibility of projects nominated by local project sponsors for disbursements from the fund. The process must require a local project sponsor to submit a request for certification that includes:

(1) a description of the benefits anticipated to result from the project, including the impact on:

(A) local economic development and diversification;

(B) congestion on public highways, future mobility needs of this state, and the development or expansion of transportation in the state;

(C) safety to the traveling public; and

(D) air quality;

(2) a description of local support for the project and any known local public opposition;

(3) a proposed schedule for the development and completion of the project, including an estimate of the date on which the project will be open to traffic; and

(4) a commitment by the local project sponsor to comply with all state or federal laws.

(c) In addition to information provided under Subsection (b), a request for certification must contain:

(1) sufficient information to determine that the local project sponsor is an entity eligible to receive funding under this

subchapter;

(2) a specific description of the project, including project limits and connections with other transportation facilities;

(3) identification of the scope of work to be completed and a detailed estimate of total project costs;

(4) a commitment that the local project sponsor intends to enter into an agreement for development of the project under Section 222.104, Transportation Code; and

(5) a proposed plan for funding the project that:

(A) is in compliance with Subsection (d); and

(B) specifically identifies the contribution of local sources to the total project cost.

(d) An eligible project may not receive more than 50 percent of the total project cost from the fund.

Sec. 403.356. DETERMINATION OF CONTRIBUTION. For purposes of determining the amount contributed by local sources to the total project cost under Section 403.355, a sponsor may include, as applicable, funds on hand, ad valorem taxes, local option taxes or fees dedicated to the project, economic development grants, other project specific gifts and grants, and, if the project is planned as a toll facility, toll revenues.

Sec. 403.357. ADMINISTRATION OF PROGRAM. In administering the program the comptroller shall:

(1) prepare an annual report projecting the amount of funding available based on estimates of future deposits to the fund and of money to be repaid to the fund by local project sponsors under loans made under this subchapter;

(2) establish guidelines for disbursements from the fund that link disbursements with proposed project development and completion schedules submitted under Section 403.355(b)(3); and

(3) establish guidelines and protocols for use by the department in certifying that a project for which a request for certification is submitted is not inconsistent with existing and planned improvements to the state highway system.

Sec. 403.358. PROJECT CERTIFICATION. (a) If the comptroller finds that a project for which a request for certification is submitted is eligible for disbursements from the fund, the comptroller shall:

(1) issue a certification to the local project sponsor to begin negotiations with the department under Section 222.104, Transportation Code; and

(2) provide the department, based on the type of projects that will most effectively meet the economic development needs of this state, with guidelines that the department shall follow in advancing projects authorized under Section 222.104, Transportation Code, and negotiating agreements for projects under that section, so that projects may be certified under this subchapter as eligible for funding, including guidelines on:

(A) prescribing the roles and responsibility of the parties for all significant work to be performed;

(B) delegating to the local project sponsor, to the maximum extent permitted by law, the full responsibility for project development;

(C) requiring a local project sponsor to meet state design criteria, construction specifications, and contract administration procedures unless the department grants an exception; and

(D) defining the maximum total funds available for the project in consideration of the total project costs and the money available in the fund.

(b) A project for which a certification is issued under this

section does not require further approval by the department under Section 222.104, Transportation Code, before an agreement may be made.

Sec. 403.359. FUND DISBURSEMENTS. (a) After a project is certified under this subchapter, the comptroller may make disbursements from the fund to a local project sponsor in the form of a grant or loan in accordance with guidelines established under Section 403.357(2).

(b) The comptroller may not make a disbursement from the fund for a project until there is a signed agreement under Section 222.104, Transportation Code, that is consistent with Section 403.358(a)(2).

Sec. 403.360. FEES. In connection with each application for certification of a project under this subchapter, the comptroller shall impose and collect from the local project sponsor an application fee in an amount sufficient to cover the costs incurred by the comptroller in administering this subchapter.

811707

ENGROSSED RIDER NO.118

ADOPTED

MAY 08 2009

Chief Clerk
House of Representatives

09 MAY -6 PM 9:50

HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. 143 BY:

Amend C.S.H.B. No. 300 (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering the remaining ARTICLES of the bill accordingly:

ARTICLE ___. PUBLIC TRANSPORTATION ADVISORY COMMITTEE

SECTION ____.01. Sections 455.004(a), (b), and (c), Transportation Code, are amended to read as follows:

(a) A public transportation advisory committee consisting of nine [~~11~~] members shall:

(1) advise the commission on the needs and problems of the state's public transportation providers, including the methods for allocating state public transportation money;

(2) comment on rules involving public transportation during development of the rules and before the commission finally adopts the rules unless an emergency requires immediate commission action;

(3) advise the commission on the implementation of Chapter 461; [~~and~~]

(4) perform any other duty determined by the commission; and

(5) reflect the diversity of this state.

(b) The members [~~commission shall appoint members of the advisory committee. The membership~~] of the committee shall be appointed by the governor, the lieutenant governor, and the speaker of the house of representatives, who shall each appoint [~~include~~]:

(1) one member [~~four members~~] who represents [~~represent~~] a diverse cross-section of public transportation providers;

(2) one member [~~three members~~] who represents [~~represent~~] a diverse cross-section of transportation users; and

429

(3) one member [~~three members~~] who represents [~~represent~~] the general public[~~, and~~

[~~(4) one member with experience in the administration of health and human services programs~~].

(c) A member serves at the pleasure of the officer who appointed the member [~~commission~~]. A member is not entitled to compensation for service on the committee but is entitled to reimbursement for reasonable expenses the member incurs in performing committee duties.

SECTION ____.02. The change in law made by this article to the public transportation advisory committee does not affect the entitlement of a member serving on the committee immediately before the effective date of this Act to serve the remainder of the member's term. The first two members whose positions expire or become vacant may not be replaced.

811547

ADOPTED As Amended

MAY [illegible] HOUSE OF REPRESENTATIVES

Chief Clerk
House of Representatives

BY: [signature]

ENGROSSED RIDER NO.119

FLOOR AMENDMENT NO. 141

Amend H.B. No. 300 (House Committee Printing) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS appropriately:

SECTION ____. Subtitle K, Title 6, Transportation Code, is amended by adding Chapter 462 to read as follows:

CHAPTER 462. SOUTHERN HIGH-SPEED RAIL COMPACT

Sec. 462.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Southern High-Speed Rail Commission.

(2) "Party state" means a state that is a party to the compact under this chapter.

Sec. 462.002. EXECUTION AND TEXT OF COMPACT. The governor, on behalf of this state, is hereby authorized to execute a compact in substantially the following form with the states of Mississippi, Louisiana, and Alabama, and the legislature hereby signifies in advance its approval and ratification of such compact, as follows:

SOUTHERN HIGH-SPEED RAIL COMPACT

ARTICLE I. PURPOSE

The purpose of this compact is to implement Pub. L. No. 97-213, including the conduct of a study of the feasibility of rapid rail transit service between the states of Mississippi, Louisiana, Alabama, and Texas and to establish a joint interstate commission to assist in this effort.

ARTICLE II. EFFECTIVE DATE; DURATION

(a) This compact shall become effective immediately as to the states ratifying it whenever the states of Mississippi, Louisiana, Alabama, and Texas have ratified it and Congress has given consent to it. Any state not mentioned in this article that is contiguous with any party state may become a party to this

compact, subject to the approval of the legislature of each party state.

(b) This compact shall continue in force and remain binding on each party state until the legislature or governor of a party state takes action to withdraw from the compact. However, any withdrawal from the compact is not effective until six months after the date of the action taken by the legislature or governor to withdraw. Notice of withdrawal shall be given to the other party states by the secretary of state of the withdrawing party state.

ARTICLE III. SOUTHERN HIGH-SPEED RAIL COMMISSION; APPOINTMENT; MEMBERSHIP

(a) The party states through this compact establish and create a joint agency known as the Southern High-Speed Rail Commission.

(b) The membership of the commission consists of:

(1) the governor of each party state or that governor's designee;

(2) one representative each from:

(A) the Mississippi Energy and Transportation Board, or its successor;

(B) the Office of Aviation and Public Transportation of the Louisiana Department of Transportation and Development, or its successor;

(C) the Alabama Department of Energy, or its successor; and

(D) the Texas Department of Transportation; and

(3) five citizens from each party state, appointed by the governor of the party state.

(c) An appointed member of the commission serves a four-year term.

(d) A vacancy on the commission shall be filled for the

unexpired portion of the term by the governor of the party state that appointed the member whose position becomes vacant.

(e) A member is not entitled to compensation for service on the commission but is entitled to reimbursement for reasonable expenses the member incurs in performing commission duties.

ARTICLE IV. SOUTHERN HIGH-SPEED RAIL COMMISSION; POWERS AND DUTIES

(a) The commission shall hold regular quarterly meetings and such special meetings as its business may require.

(b) The members of the commission shall choose a chairman and vice chairman. The chairmanship shall rotate annually among the party states in the order of ratification of the compact.

(c) The commission shall adopt rules and regulations for the transaction of its business and keep a record of all business.

(d) The commission shall study the feasibility of providing interstate rapid rail transit service between the party states. To facilitate this duty, the commission may:

(1) hold hearings;

(2) conduct studies and surveys of the problems, benefits, and other matters associated with the provision of interstate rapid rail transit service;

(3) make reports on an activity conducted under Subdivision (2);

(4) acquire by gift, grant, or otherwise from local, state, federal, or private sources money or property to be used for the business of the commission;

(5) hold and dispose of money or property acquired under Subdivision (4);

(6) cooperate with public or private groups having an interest in interstate rapid rail transit service;

(7) adopt and implement plans and policies for emphasizing the purpose of this compact before the Congress of the

United States and other appropriate officers and agencies of the United States; and

(8) exercise any other powers as may be appropriate to accomplish the purposes of this compact.

ARTICLE V. FUNDING

Each party state agrees that its legislature may in its discretion make available and pay to the commission funds for the establishment and operation of the commission. The contribution of each party state shall be in equal amounts, if possible. Nothing in this article shall be construed as binding the legislature of any party state to make an appropriation of a particular amount at any time.

ARTICLE VI. CONFLICT OF LAWS

Nothing in this compact shall be construed to conflict with any existing statute, repeal or prevent legislation, or affect any existing or future cooperative agreement or relationship between any federal agency and a party state.

ARTICLE VII. GRANT OF AUTHORITY

There is hereby granted to the governor, to the members of the commission for Mississippi, Louisiana, Alabama, and Texas, and to the compact administrator all the powers provided for in the compact. All officers of the State of Texas are authorized and directed to perform any actions in their respective jurisdictions that are necessary to carrying out the purpose of the compact.

811790

ENGROSSED RIDER NO.120

FLOOR AMENDMENT NO. 145

ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

Amend Amendment No 144 to C.S.H.B. No. 300 by Hughes (page 45 of the pre-filed amendment packet) by striking all below the introductory language (page 1, line 4 of the amendment through page 4, line 24) and substituting the following:

SECTION __. Subtitle K, Title 6, Transportation Code, is amended by adding Chapter 462 to read as follows:

CHAPTER 462. SOUTHERN HIGH-SPEED RAIL COMPACT

Sec. 462.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Southern High-Speed Rail Commission.

(2) "Party state" means a state that is a party to the compact under this chapter.

Sec. 462.002. EXECUTION AND TEXT OF COMPACT. The governor, on behalf of this state, is hereby authorized to execute a compact in substantially the following form with the states of Mississippi, Louisiana, and Alabama, and the legislature hereby signifies in advance its approval and ratification of such compact, as follows:

SOUTHERN HIGH-SPEED RAIL COMPACT

ARTICLE I. PURPOSE

The purpose of this compact is to implement Pub. L. No. 97-213, including the conduct of a study of the feasibility of rapid rail transit service between the states of Mississippi, Louisiana, Alabama, and Texas and to establish a joint interstate commission to assist in this effort.

ARTICLE II. EFFECTIVE DATE; DURATION

(a) This compact shall become effective immediately as to the states ratifying it whenever the states of Mississippi, Louisiana, Alabama, and Texas have ratified it and Congress has given consent to it. Any state not mentioned in this article

that is contiguous with any party state may become a party to this compact, subject to the approval of the legislature of each party state.

(b) This compact shall continue in force and remain binding on each party state until the legislature or governor of a party state takes action to withdraw from the compact. However, any withdrawal from the compact is not effective until six months after the date of the action taken by the legislature or governor to withdraw. Notice of withdrawal shall be given to the other party states by the secretary of state of the withdrawing party state.

ARTICLE III. SOUTHERN HIGH-SPEED RAIL COMMISSION; APPOINTMENT; MEMBERSHIP

(a) The party states through this compact establish and create a joint agency known as the Southern High-Speed Rail Commission.

(b) The membership of the commission consists of:

(1) the governor of each party state or that governor's designee;

(2) one representative each from:

(A) the Mississippi Energy and Transportation Board, or its successor;

(B) the Office of Aviation and Public Transportation of the Louisiana Department of Transportation and Development, or its successor;

(C) the Alabama Department of Energy, or its successor; and

(D) the Texas Department of Transportation; and

(3) five citizens from each party state, appointed by the governor of the party state.

(c) The citizens appointed from the State of Texas must reside in a federally designated high-speed rail corridor.

(d) An appointed member of the commission serves a four-year term.

(e) A vacancy on the commission shall be filled for the unexpired portion of the term by the governor of the party state that appointed the member whose position becomes vacant.

(f) A member is not entitled to compensation for service on the commission but is entitled to reimbursement for reasonable expenses the member incurs in performing commission duties.

ARTICLE IV. SOUTHERN HIGH-SPEED RAIL COMMISSION; POWERS AND DUTIES

(a) The commission shall hold regular quarterly meetings and such special meetings as its business may require.

(b) The members of the commission shall choose a chairman and vice chairman. The chairmanship shall rotate annually among the party states in the order of ratification of the compact.

(c) The commission shall adopt rules and regulations for the transaction of its business and keep a record of all business.

(d) The commission shall study the feasibility of providing interstate rapid rail transit service between the party states. To facilitate this duty, the commission may:

(1) hold hearings;

(2) conduct studies and surveys of the problems, benefits, and other matters associated with the provision of interstate rapid rail transit service;

(3) make reports on an activity conducted under Subdivision (2);

(4) acquire by gift, grant, or otherwise from local, state, federal, or private sources money or property to be used for the business of the commission;

(5) hold and dispose of money or property acquired under Subdivision (4);

(6) cooperate with public or private groups having an interest in interstate rapid rail transit service;

(7) adopt and implement plans and policies for emphasizing the purpose of this compact before the Congress of the United States and other appropriate officers and agencies of the United States; and

(8) exercise any other powers as may be appropriate to accomplish the purposes of this compact.

ARTICLE V. FUNDING

Each party state agrees that its legislature may in its discretion make available and pay to the commission funds for the establishment and operation of the commission. The contribution of each party state shall be in equal amounts, if possible. Nothing in this article shall be construed as binding the legislature of any party state to make an appropriation of a particular amount at any time.

ARTICLE VI. CONFLICT OF LAWS

Nothing in this compact shall be construed to conflict with any existing statute, repeal or prevent legislation, or affect any existing or future cooperative agreement or relationship between any federal agency and a party state.

ARTICLE VII. GRANT OF AUTHORITY

There is hereby granted to the governor, to the members of the commission for Mississippi, Louisiana, Alabama, and Texas, and to the compact administrator all the powers provided for in the compact. All officers of the State of Texas are authorized and directed to perform any actions in their respective jurisdictions that are necessary to carrying out the purpose of the compact.





ENGROSSED RIDER NO.121

FLOOR AMENDMENT NO. 146 BY:

Amend proposed C.S.H.B. No. 300, in ARTICLE __ of the bill, by adding the following SECTIONS, appropriately numbered, and renumbering existing SECTIONS in ARTICLE __ accordingly:

SECTION ___. Chapter 472, Transportation Code, is amended by adding a new section 472.01355 to read as follows:

Sec. 472.03155. POLICY BOARD MEMBERSHIP AND VOTING REQUIREMENTS IN POPULOUS COUNTIES; ELIGIBILITY FOR STATE ALLOCATION OF FUNDING. (a) This section applies only to a metropolitan planning organization that serves a county with a population of 3.3 million or more.

(b) To be eligible to receive funds from this state for transportation projects under Section 201.668:

(1) at least 50 percent of a metropolitan planning organization's policy board members must be elected officials who are elected in the boundaries of the metropolitan planning organization; and

(2) except as provided in Section 472.03166, only elected officials may be voting members of the organization's policy board.

(c) A metropolitan planning organization that is not eligible under Subsection (b) may redesignate the board so as to

become eligible to receive an allocation of funds under Section 201.668.

(d) In this section, "elected official" means the presiding officer or a member of the governing body of a municipality, a county judge, a county commissioner, a state representative, or a state senator.

SECTION ___. Chapter 472, Transportation Code, is amended by adding a new section 472.01366 to read as follows:

Sec. 472.03166. REPRESENTATION IN POPULOUS COUNTIES AND CITIES. For a metropolitan planning organization that serves a county with a population of 3.3 million or more, the counties and municipalities of that metropolitan planning organization may designate one or more non-elected officials to serve on the policy board and such persons may be provided voting membership. If the metropolitan area of such metropolitan planning organization is served by authorities or other agencies that have been or may be created by law to perform transportation functions and are performing transportation functions, the authorities or other agencies may be provided voting membership on the policy board regardless of whether the authorities or agencies are also under the jurisdiction of a municipality or county represented on the metropolitan planning organization.

811636

ADOPTED

MAY 13 2009

09 MAY -6 PM 9:32

HOUSE OF REPRESENTATIVES

Chief Clerk
House of Representatives

ENGROSSED RIDER NO.122

FLOOR AMENDMENT NO. 149 BY: Gallego

Amend H.B. No. 300 by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS as appropriate:

SECTION ___. Sections 502.1725(a), (f), and (g), Transportation Code, are amended to read as follows:

(a) This section applies only to:

(1) a county:

(A) [~~(1)~~] that borders the United Mexican States;

(B) [~~(2)~~] that has a population of more than 300,000; and

(C) [~~(3)~~] in which the largest municipality has a population of less than 300,000; and

(2) a county that has a population of less than 50,000 that:

(A) borders the United Mexican States; and

(B) contains at least one federal military base.

(f) The county assessor-collector of a county imposing a fee under this section shall collect the additional fee for a vehicle when other fees imposed under this chapter are collected. If the county is included in a regional mobility authority, the [~~The~~] county shall send the fee revenue to the regional mobility authority [~~of the county~~] to fund long-term transportation projects in the county.

(g) The department shall collect the additional fee on a vehicle that is owned by a resident of a county imposing a fee under this section and that, under this chapter, must be registered directly with the department. The department shall send all fees collected for a county under this subsection to:

(1) the regional mobility authority of the county to fund long-term transportation projects in the county if the county is included in an authority; or

(2) the county treasurer to be credited to the county public transportation fund if the county is not included in an authority.

811705

ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

09 MAY -6 PM 9:49

HOUSE OF REPRESENTATIVES

ENGROSSED RIDER NO.123

FLOOR AMENDMENT NO. 150 BY: Phillips

Amend C.S.H.B. No. 300 (House committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering the remaining ARTICLES of the bill accordingly:

ARTICLE ___. SPECIALTY LICENSE PLATES

SECTION __.01. Section 504.003, Transportation Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) If a [~~the~~] souvenir license plate issued before September 1, 2009, is personalized, the fee for the plate is $40. Of the fee:

(1) $20 shall be deposited to the credit of the state highway fund;

(2) $10 shall be deposited to the credit of the designated account if the souvenir license plate is a replica of a specialty license plate issued under Subchapter G or I for which the fee is deposited to a designated account other than the state highway fund; and

(3) the remainder shall be deposited to the credit of the general revenue fund.

(c-1) The fee for a souvenir license plate issued on or after September 1, 2009, is the amount established under Section 504.851(c).

SECTION __.02. Section 504.102, Transportation Code, is amended to read as follows:

Sec. 504.102. PERSONALIZATION OF [~~OTHER~~] SPECIALTY LICENSE PLATE [~~PLATES~~]. Unless expressly prohibited by this chapter or department rule, any specialty license plate issued under this chapter may be personalized. If a [~~another~~] specialty license plate is personalized, the fee for personalization of the specialty

license plate [~~established by Section 504.101(c)~~] shall be added to the fee for issuance of that specialty license plate.

SECTION __.03. Section 504.601, Transportation Code, is amended to read as follows:

Sec. 504.601. GENERAL PROVISIONS APPLICABLE TO [~~ALL~~] SPECIALTY LICENSE PLATES FOR GENERAL DISTRIBUTION. (a) Unless expressly provided by this subchapter or department rule:

(1) the fee for issuance of a license plate under this subchapter is $30; and

(2) of each fee received under this subchapter, the department shall use $8 to defray its administrative costs in complying with this subchapter.

(b) This section does not apply to a specialty license plate marketed and sold by a private vendor at the request of the specialty license plate sponsor under Section 504.6011.

SECTION __.04. Subchapter G, Chapter 504, Transportation Code, is amended by adding Section 504.6011 to read as follows:

Sec. 504.6011. GENERAL PROVISIONS APPLICABLE TO SPECIALTY LICENSE PLATES FOR GENERAL DISTRIBUTION SOLD THROUGH PRIVATE VENDOR. (a) The sponsor of a specialty license plate authorized to be issued under this subchapter before September 1, 2009, may contract with the private vendor authorized under Subchapter J for the marketing and sale of the specialty license plate.

(b) The fee for issuance of a specialty license plate described by Subsection (a) is the amount established under Section 504.851.

(c) Notwithstanding any other law, from each fee received for the issuance of a specialty license plate described by Subsection (a), the department shall:

(1) deduct the administrative costs described by Section 504.601(a)(2);

(2) deposit to the credit of the account designated by the law authorizing the specialty license plate the portion of the fee for the sale of the plate that the state would ordinarily receive under the contract described by Section 504.851(a); and

(3) pay to the private vendor the remainder of the fee.

SECTION __.05. Section 504.801, Transportation Code, is amended by amending Subsections (d), (e), and (f) and adding Subsection (d-1) to read as follows:

(d) The fee for issuance of license plates created [~~authorized~~] under this subchapter before September 1, 2009, is $30 unless the department sets a higher fee. This subsection does not apply to a specialty license plate marketed and sold by a private vendor at the request of the specialty license plate sponsor.

(d-1) The fee for issuance of license plates created under this subchapter on or after September 1, 2009, is the amount established under Section 504.851.

(e) For each fee collected for a license plate issued by the department under this section:

(1) $8 shall be used to reimburse the department for its administrative costs; and

(2) the remainder shall be deposited to the credit of:

(A) the specialty license plate fund, which is an account in the general revenue fund, if the sponsor nominated a state agency to receive the funds; or

(B) the state highway fund if the sponsor did not nominate a state agency to receive the funds or if there is no sponsor.

(f) Subchapter D, Chapter 316, Government Code, and Section 403.095, Government Code, do not apply to fees collected under this subchapter [~~section~~].

SECTION __.06. Subchapter I, Chapter 504, Transportation

Code, is amended by adding Section 504.802 to read as follows:

Sec. 504.802. MARKETING AND SALE BY PRIVATE VENDOR OF SPECIALTY LICENSE PLATES CREATED BEFORE SEPTEMBER 1, 2009. (a) A sponsor of a specialty license plate created under this subchapter before September 1, 2009, may contract with the private vendor authorized under Subchapter J for the marketing and sale of the specialty license plate.

(b) The fee for issuance of a specialty license plate described by Subsection (a) is the amount established under Section 504.851(c).

(c) Notwithstanding any other law, from each fee received from the issuance of a specialty license plate marketed and sold by the private vendor under this section, the department shall:

(1) deduct the administrative costs described by Section 504.801(e)(1);

(2) deposit the portion of the fee for the sale of the plate that the state would ordinarily receive under the contract described by Section 504.851(a) to the credit of:

(A) the specialty license plate fund, if the sponsor nominated a state agency to receive the funds; or

(B) the general revenue fund, if the sponsor did not nominate a state agency to receive the funds or if there is no sponsor; and

(3) pay to the private vendor the remainder of the fee.

SECTION __.07. Section 504.851, Transportation Code, is amended by amending Subsections (a), (b), (c), (d), and (j) and adding Subsections (a-1), (a-2), and (c-1) to read as follows:

(a) The department shall enter into a contract with the private vendor whose proposal is most advantageous to the state, as determined from competitive sealed proposals that satisfy the requirements of this section, for the marketing and sale of:

(1) personalized license plates [~~authorized by Section 504.101~~]; or

(2) with the agreement of the private vendor, other specialty license plates authorized by this chapter [~~subchapter~~].

(a-1) The department may not issue specialty, personalized, or souvenir license plates with background colors other than white, unless the plates are marketed and sold by the private vendor.

(a-2) Specialty license plates authorized for marketing and sale under Subsection (a) must include:

(1) specialty license plates created under Subchapters G and I on or after September 1, 2009; and

(2) at the request of the specialty license plate sponsor, an existing specialty license plate created under Subchapters G and I before September 1, 2009.

(b) The director [~~Instead of the fees established by Section 504.101(c), the commission~~] by rule shall establish fees for the issuance or renewal of personalized license plates that are marketed and sold by the private vendor. Fees must be reasonable and not less than the greater of:

(1) the amounts necessary to allow the department to recover all reasonable costs to the department associated with the evaluation of the competitive sealed proposals received by the department and with the implementation and enforcement of the contract, including direct, indirect, and administrative costs; or

(2) the amount established by Section 504.853(b) [~~504.101(c)~~].

(c) The director [~~commission~~] by rule shall establish the fees for the issuance or renewal of souvenir license plates, specialty license plates, or souvenir or specialty license plates that are personalized that are marketed and sold by the private vendor. Fees must be reasonable and not less than the amounts

necessary to allow the department to recover all reasonable costs to the department associated with the evaluation of the competitive sealed proposals received by the department and with the implementation and enforcement of the contract, including direct, indirect, and administrative costs. A fee established under this subsection is in addition to:

(1) the registration fee and any optional registration fee prescribed by this chapter for the vehicle for which specialty license plates are issued;

(2) any additional fee prescribed by this subchapter for the issuance of specialty license plates for that vehicle; and

(3) any additional fee prescribed by this subchapter for the issuance of personalized license plates for that vehicle.

(c-1) Subsections (b) and (c) do not apply to the sale at auction of a license to display an alphanumeric pattern.

(d) At any time as necessary to comply with Subsection (b) or (c), the director [~~commission~~] may increase [~~or decrease~~] the amount of a fee established under the applicable subsection.

(j) From amounts received by the department under the contract described by Subsection (a), the department shall deposit to the credit of the state highway fund an amount sufficient to enable the department to recover its administrative costs for all license plates issued under this section, [~~including~~] any payments to the vendor under the contract [~~Subsection (a)~~], and any other amounts allocated by law to the state highway fund [~~by another law~~]. To the extent that the disposition of other amounts received by [~~from~~] the department is [~~vendor are~~] governed by another law, those amounts shall be deposited in accordance with the other law. The fee [~~, and~~] for each type of license plate issued under this chapter [~~the amount charged for the license plate~~] may not be less than the fee [~~amount~~] in effect on January 1, 2003. Any additional

amount received by [~~from~~] the department under the contract [~~vendor~~] shall be deposited to the credit of the general revenue fund.

SECTION __.08. Subchapter J, Chapter 504, Transportation Code, is amended by adding Sections 504.853 and 504.854 to read as follows:

Sec. 504.853. PERSONALIZED LICENSE PLATES ISSUED BEFORE SEPTEMBER 1, 2009. (a) A personalized license plate issued before September 1, 2009, may be issued for a subsequent registration period only if the applicant submits an application and pays the required fee for the applicable registration period. A person who is issued a personalized license plate has first priority on that license plate for each subsequent registration period for which the person submits a new application for that plate.

(b) The fee for issuance of a personalized license plate issued before September 1, 2009, is $40, unless the director adopts by rule a higher fee.

(c) A person who is issued a personalized license plate by the department before September 1, 2009, may:

(1) submit an application for the plate under Subsection (a) and pay the required fee for each subsequent registration period under Subsection (b); or

(2) purchase through the private vendor a license to display the alphanumeric pattern on a license plate for any term allowed by law.

(d) The department may not issue a replacement set of personalized license plates to the same person before the sixth anniversary of the date of issuance unless the applicant for issuance of replacement plates pays an additional fee of $30.

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

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

(2) the remainder shall be deposited to the credit of the general revenue fund.

Sec. 504.854. AUCTION. (a) The private vendor may sell at auction a license to display a unique alphanumeric pattern on a license plate.

(b) Only a license to display an alphanumeric pattern purchased under this section or a license to display an alphanumeric pattern sold by the private vendor under Section 504.853(c)(2) may be transferred to another person. The transferee is entitled to the same rights and privileges as the transferor.

(c) The transferee shall file a form prescribed by the department to notify the department of the transfer.

SECTION __.09. The following provisions of the Transportation Code are repealed:

(1) Section 504.101; and

(2) Section 504.851(m).

SECTION __.10. The changes in law made by this article do not require the rebidding of a contract that is in effect on the effective date of this Act.

ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives



ENGROSSED RIDER NO.124

09 MAY -6 PM 9:30

HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. 151 BY: Pete P. Gallego

Amend H.B. No. 300 by adding the following appropriately numbered SECTIONS to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION ____. The heading to Section 504.401, Transportation Code, is amended to read as follows:

Sec. 504.401. STATE OFFICIALS: EXECUTIVE AND LEGISLATIVE BRANCHES.

SECTION ____. Sections 504.401(b) and (d), Transportation Code, are amended to read as follows:

(b) A state official may be issued four [~~three~~] sets of license plates under this section.

(d) In this section, "state official" means:

(1) a member of the legislature;

(2) the governor;

(3) the lieutenant governor;

(4) [~~a justice of the supreme court;~~

[~~(5) a judge of the court of criminal appeals;~~

[~~(6)~~] the attorney general;

(5) [~~(7)~~] the commissioner of the General Land Office;

(6) [~~(8)~~] the comptroller;

(7) [~~(9)~~] a member of the Railroad Commission of Texas;

(8) [~~(10)~~] the commissioner of agriculture;

(9) [~~(11)~~] the secretary of state; or

(10) [~~(12)~~] a member of the State Board of Education.

SECTION ____. The heading to Section 504.402, Transportation Code, is amended to read as follows:

Sec. 504.402. FEDERAL OFFICIALS: LEGISLATIVE BRANCH [~~MEMBERS OF CONGRESS~~].

SECTION ____. Section 504.402(b), Transportation Code, is amended to read as follows:

(b) A person may be issued four [~~three~~] sets of license plates under this section.

SECTION ____. The heading to Section 504.403, Transportation Code, is amended to read as follows:

Sec. 504.403. STATE OFFICIALS: JUDICIAL BRANCH [~~AND FEDERAL JUDGES~~].

SECTION ____. Sections 504.403(a) and (d), Transportation Code, are amended to read as follows:

(a) The department shall issue without charge specialty license plates for a current [~~or visiting~~] state [~~or federal~~] judge. The license plates must include the words "State Judge" [~~or "U.S. Judge," as appropriate~~].

(d) In this section, [~~:~~

[~~(1) "Federal judge" means:~~

[~~(A) a judge of the Fifth Circuit Court of Appeals;~~

[~~(B) a judge or magistrate of a United States district court; or~~

[~~(C) a judge of a United States bankruptcy court.~~

[~~(2)~~] "state [~~State~~] judge" means:

(1) [~~(A)~~] a justice of the supreme court;

(2) [~~(B)~~] a judge of the court of criminal appeals;

(3) [~~(C)~~] a judge of a court of appeals;

(4) [~~(D)~~] a district court judge;

(5) [~~(E)~~] a presiding judge of an administrative judicial district; or

(6) [~~(F)~~] a statutory county court judge.

SECTION ____. Subchapter E, Chapter 504, Transportation Code, is amended by adding Section 504.4031 to read as follows:

Sec. 504.4031. FEDERAL OFFICIALS: JUDICIAL BRANCH. (a) The department shall issue without charge specialty license plates for a current federal judge. The license plates must include the words "U.S. Judge."

(b) A person may be issued three sets of plates under this section.

(c) The license plates remain valid until December 31 of each year.

(d) In this section, "federal judge" means:

(1) a justice of the United States Supreme Court whose primary residence is in Texas;

(2) a judge of the Fifth Circuit Court of Appeals; or

(3) a judge of a United States District Court.

SECTION ____. The heading to Section 504.405, Transportation Code, is amended to read as follows:

Sec. 504.405. COUNTY OFFICIALS: COUNTY JUDGES.

SECTION ____. Section 504.405, Transportation Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) A person may be issued two [~~three~~] sets of license plates under this section.

(b-1) The license plates remain valid until December 31 of each year.

SECTION ____. Section 504.406, Transportation Code, is amended to read as follows:

Sec. 504.406. COUNTY OFFICIALS: [~~TEXAS~~] CONSTABLES. (a) The department shall issue without charge specialty license plates for current [~~Texas~~] constables of this state. The license plates shall bear the words "County [~~Texas~~] Constable."

(b) A person may be issued only one set of license plates under this section.

(c) The license plates remain valid until December 31 of each year.

SECTION ____. Subchapter E, Chapter 504, Transportation Code, is amended by adding Section 504.4061 to read as follows:

Sec. 504.4061. COUNTY OFFICIALS: SHERIFFS. (a) The department shall issue without charge specialty license plates for current sheriffs of this state. The license plates shall bear the words "County Sheriff."

(b) A person may be issued one set of license plates under this section.

(c) The license plates remain valid until December 31 of each year.

SECTION ____. Section 504.404, Transportation Code, is repealed.

SECTION ____. The changes to Sections 504.401, 504.402, 504.403, 504.405, and 504.406, Transportation Code, as amended by this Act, and Sections 504.4031 and 504.4061, Transportation Code, as added by this Act, take effect January 1, 2010.

811549



ADOPTED

MAY 08 2009

HOUSE OF REPRESENTATIVES

Robert Haney
Chief Clerk
House of Representatives

ENGROSSED RIDER NO.125

FLOOR AMENDMENT NO. 152 BY: Benjamin Hughes

Amend C.S.H.B. No. 300 (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering the remaining ARTICLES of the bill accordingly:

ARTICLE ___. SPECIALTY LICENSE PLATES

SECTION ___.01. Section 504.409, Transportation Code, is amended to read as follows:

Sec. 504.409. [~~VOLUNTEER~~] FIREFIGHTERS. (a) The department shall issue specialty license plates for:

(1) volunteer firefighters certified by:

(A) [~~(1)~~] the Texas Commission on Fire Protection; or

(B) [~~(2)~~] the State Firemen's and Fire Marshals' Association of Texas; and

(2) fire protection personnel as that term is defined by Section 419.021, Government Code.

(b) The fee for issuance of each set of [~~the~~] license plates is:

(1) $4 for volunteer firefighters; and

(2) $30 for fire protection personnel.

(c) A person may be issued not more than three sets [~~only one set~~] of [~~the~~] license plates.

455

811679

ADOPTED
MAY 08 2009
Chief Clerk
House of Representatives

09 MAY -6 PM 9:55
HOUSE OF REPRESENTATIVES

ENGROSSED RIDER NO.126

FLOOR AMENDMENT NO. 153 BY: Guillen

Amend C.S.H.B. No. 300 (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ___. SPECIALTY LICENSE PLATES

SECTION ___.01. Subchapter E, Chapter 504, Transportation Code, is amended by adding Sections 504.415 and 504.416 to read as follows:

Sec. 504.415. JUSTICES OF THE PEACE. (a) The department shall issue specialty license plates for current justices of the peace of this state. The license plates shall bear a depiction of the scales of justice and the words "Justice of the Peace."

(b) The fee for issuance of the license plates is:

(1) $10 for the first set of license plates; and

(2) $15 for each additional set of license plates.

Sec. 504.416. MUNICIPAL JUDGES. (a) The department shall issue specialty license plates for current municipal judges in this state. The license plates shall bear a depiction of the scales of justice and the words "Municipal Judge."

(b) The fee for issuance of the license plates is:

(1) $10 for the first set of license plates; and

(2) $15 for each additional set of license plates.

811526

ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

09MAY-6 P 3:50

HOUSE OF REPRESENTATIVES

ENGROSSED RIDER NO.127

FLOOR AMENDMENT NO. 154 BY:

Amend C.S.H.B. No. 300 (House committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering the remaining ARTICLES of the bill accordingly:

ARTICLE ___. SPECIALTY LICENSE PLATES

SECTION ___.___. Section 504.614, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) Notwithstanding any other provision of this section, the department shall issue specialty license plates that include the name and insignia of the San Antonio Spurs. After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates issued under this subsection shall be deposited to the credit of the Texas parks and wildlife conservation and capital account established by Section 11.043, Parks and Wildlife Code. Money deposited in the Texas parks and wildlife conservation and capital account under this section is supplementary and is not income for the purposes of reducing general revenue appropriations to the Parks and Wildlife Department.

811655

03 MAY -6 PM 2:41

HOUSE OF REPRESENTATIVES

ENGROSSED RIDER NO.128

FLOOR AMENDMENT NO. 155 BY: _____

Amend C.S.H.B. No. 300 (House committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE __. SPECIALTY LICENSE PLATES

SECTION ____.01. Subchapter G, Chapter 504, Transportation Code, is amended by adding Section 504.659 to read as follows:

Sec. 504.659. CHOOSE LIFE LICENSE PLATES AND CHOOSE ADOPTION LICENSE PLATES. (a) The department shall issue specially designed license plates that include the words "Choose Life" and "Choose Adoption." The department shall design the license plates in consultation with the attorney general.

(b) After deduction of the department's administrative costs, the department shall deposit the remainder of the fee for issuance of license plates under this section in the state treasury to the credit of the Choose Life and Choose Adoption account established by Section 402.035, Government Code.

SECTION ____.02. Subchapter B, Chapter 402, Government Code, is amended by adding Sections 402.035 and 402.036 to read as follows:

Sec. 402.035. CHOOSE LIFE AND CHOOSE ADOPTION ACCOUNT. (a) The Choose Life and Choose Adoption account is a separate account in the general revenue fund. The account is composed of:

(1) money deposited to the credit of the account under Section 504.659, Transportation Code; and

(2) gifts, grants, donations, and legislative appropriations.

(b) The attorney general administers the Choose Life and Choose Adoption account. The attorney general may spend money credited to the account only to:

(1) make grants to an eligible organization; and

(2) defray the cost of administering the account.

(c) The attorney general may not discriminate against an eligible organization because it is a religious or nonreligious organization.

(d) The attorney general may accept gifts, donations, and grants from any source for the benefit of the account.

(e) The attorney general by rule shall establish:

(1) guidelines for the expenditure of money credited to the Choose Life and Choose Adoption account; and

(2) reporting and other mechanisms necessary to ensure that the money is spent in accordance with this section.

(f) Money received by an eligible organization under this section may be spent only to provide for the material needs of pregnant women who are considering placing their children for adoption, including the provision of clothing, housing, prenatal care, food, utilities, and transportation, to provide for the needs of infants who are awaiting placement with adoptive parents, to provide training and advertising relating to adoption, and to provide pregnancy testing or preadoption or postadoption counseling, but may not be used to pay an administrative, legal, or capital expense.

(g) In this section, "eligible organization" means an organization in this state that:

(1) qualifies as a charitable organization under Section 501(c)(3), Internal Revenue Code of 1986;

(2) provides counseling and material assistance to pregnant women who are considering placing their children for adoption;

(3) does not charge for services provided;

(4) does not provide abortions or abortion-related

services or make referrals to abortion providers;

(5) is not affiliated with an organization that provides abortions or abortion-related services or makes referrals to abortion providers; and

(6) does not contract with an organization that provides abortions or abortion-related services or makes referrals to abortion providers.

Sec. 402.036. CHOOSE LIFE AND CHOOSE ADOPTION ADVISORY COMMITTEE. (a) The attorney general shall appoint a seven-member Choose Life and Choose Adoption advisory committee.

(b) The committee shall:

(1) meet at least twice a year or as called by the attorney general;

(2) assist the attorney general in developing rules under Section 402.035(e); and

(3) review and make recommendations to the attorney general on applications submitted to the attorney general for grants funded with money credited to the Choose Life and Choose Adoption account.

(c) Members of the committee serve without compensation and are not entitled to reimbursement for expenses. Each member serves a term of four years, with the terms of three or four members expiring on January 31 of each odd-numbered year.

811593

As Amended

ADOPTED

09 MAY -6 PM 8:11

HOUSE OF REPRESENTATIVES

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

ENGROSSED RIDER NO.129

FLOOR AMENDMENT NO. 15A

BY Mando Martinez

Amend HB 300 by inserting the following appropriately-numbered SECTION:

SECTION ___. Subchapter E, Chapter 504, Transportation Code, is amended by adding Section 504.4011 to read as follows:

Sec. 504.4011. ELECTED MUNICIPAL OFFICIALS. (a) The department shall issue specially designed license plates for a passenger car or light truck owned by an elected person who is a member of the governing body of a municipality.

(b) License plates issued under this section must include the words "City Official."

(c) A person may be issued three sets of license plates under this section.



811811

ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

ENGROSSED RIDER NO.130

AMENDMENT NO. 157

MARQUEZ / MARTINEZ

Amend Floor Amendment No. 156 to C.S.H.B. No. 300 by Martinez (page 89, prefiled amendment packet), as follows:

(1) On line 5, between "OFFICIALS" and the underlined period, insert "; JUSTICES OF THE PEACE".

(2) On line 8, between "municipality" and the underlined period, by insert ", a popularly elected municipal judge, or a justice of the peace".

(3) On line 10, strike ""City Official."", and substitute ""City Official," "Municipal Judge," or "Justice of the Peace," as applicable".

ADOPTED As Amended

MAY 08 2009

811544

Chief Clerk
House of Representatives

ENGROSSED RIDER NO.131

HOUSE

FLOOR AMENDMENT NO. 158

BY:

Amend C.S.H.B. No. 300 (house committee report) by adding the following appropriately numbered article to the bill and renumbering subsequent articles of the bill as appropriate:

ARTICLE ___. SPECIALTY LICENSE PLATES

SECTION ___. Subchapter E, Chapter 504, Transportation Code, is amended by adding Section 504.4095 to read as follows:

Sec. 504.4095. PROFESSIONAL FIREFIGHTERS. (a) The sponsor of a specialty license plate created under Section 504.801 for professional firefighters may nominate a state agency for receipt of funds under Section 504.801(b).

(b) After deduction of the department's administrative costs in accordance with Section 504.801, the remainder of the fee for issuance of a license plate described by Subsection (a) shall be deposited to the credit of the specialty license plate fund to be used by the nominated state agency in making grants to support the activities of an organization of professional firefighters located in this state that provides emergency relief and college scholarship funds to professional firefighters and dependents.

811788

ENGROSSED RIDER NO.132

FLOOR AMENDMENT NO. 159 BY: Bryan Hughes

Amend Amendment No. 158 to C.S.H.B. No. 300 by Hughes (page 42 of the pre-filed amendment packet) by striking lines 5 through 18 of the amendment and substituting the following:

SECTION __. Subchapter E, Chapter 504, Transportation Code, is amended by adding Section 504.414 to read as follows:

Sec. 504.414. PROFESSIONAL FIREFIGHTER PLATES. (a) The professional firefighter plate may be issued to qualified firefighters. The sponsor of the plate may nominate a state agency for receipt of funds under Section 504.801(e)(2)(A).

(b) After deduction of the department's administrative costs in accordance with Section 504.801, the remainder of the fees from the sale of professional firefighter plates shall be deposited to the credit of an account in the state treasury to be used by the nominated state agency for the purpose of making grants to support the activities of an organization of professional firefighters located in this state that provides emergency relief and college scholarship funds to the professional firefighters and their dependents.

ADOPTED
MAY 08 2009
Robert Haney
Chief Clerk
House of Representatives



ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

ENGROSSED RIDER NO.133

FLOOR AMENDMENT NO. 100

BY: _____

Amend C.S.H.B. No. 300 (House committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ___. SPECIALTY LICENSE PLATES

SECTION ___.01. Subchapter G, Chapter 504, Transportation Code, is amended by adding Section 504.6151 to read as follows:

Sec. 504.6151. NOTRE DAME ALUMNI ASSOCIATION LICENSE PLATES. The department shall issue specialty license plates that include the words "Notre Dame Alumni Association." The department shall design the license plates in consultation with the Notre Dame Alumni Association.

09 MAY -5 PM 3:46
HOUSE OF REPRESENTATIVES

811580

ENGROSSED RIDER NO.134

FLOOR AMENDMENT NO. 161 BY: Jamie F. Coleman

Amend CSHB 300, by adding the following section and numbering accordingly:

SECTION _____. Section 521.142(e), Transportation Code, is amended to read as follows:

(e) The application must include any other information the department requires to determine the applicant's identity, competency, and eligibility, except the application may not include an inquiry as to whether the applicant has been diagnosed with, treated, or hospitalized for a psychiatric disorder.

ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

09 MAY -6 PM 6:15
HOUSE OF REPRESENTATIVES

466

X



09 MAY -6 PM 9:33

HOUSE OF REPRESENTATIVES

ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

ENGROSSED RIDER NO.135

FLOOR AMENDMENT NO. 467

BY: [signature]

Amend C.S.H.B. No. 300 (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES accordingly:

ARTICLE ___. TRAFFIC-CONTROL SIGNALIZATION STUDY

SECTION ___.01. Chapter 544, Transportation Code, is amended by adding Section 544.014 to read as follows:

Sec. 544.014. STUDY. (a) The department shall conduct a study regarding improvement of traffic-control signalization.

(b) In conducting the study, the department shall consider:

(1) methods to promote more efficient traffic flow, including a reduction in vehicle idling time, by:

(A) synchronizing or eliminating traffic-control signals;

(B) adopting smart light technologies, including cameras; and

(C) adopting alternatives to red light signals;

(2) the funding sources available to municipalities wishing to implement new traffic control programs; and

(3) the economic and environmental effects of idling vehicles.

(c) The department may not spend more than $200,000 on the study conducted under this section.

(d) Not later than December 1, 2010, the department shall report the results of the study conducted under this section to the governor, the lieutenant governor, the speaker of the house of representatives, and the appropriate oversight committees of each house of the legislature.

(e) This section expires September 1, 2011.



ADOPTED AS Amended
MAY 08 2009
Robert Haney
Chief Clerk
House of Representatives

ENGROSSED RIDER NO.136

FLOOR AMENDMENT NO. 163

BY:

Amend C.S.H.B. No. 300 (House committee printing) by adding the following ARTICLE to the bill, appropriately numbered, and renumbering subsequent ARTICLES accordingly:

ARTICLE __. USE OF SAFETY BELTS BY VEHICLE OPERATORS

SECTION __.01. Section 545.413(e), Transportation Code, is amended to read as follows:

(e) It is a defense to prosecution under this section that:

(1) the person possesses a written statement from a licensed physician stating that for a medical reason the person should not wear a safety belt;

(2) the person presents to the court, not later than the 10th day after the date of the offense, a statement from a licensed physician stating that for a medical reason the person should not wear a safety belt;

(3) the person is employed by the United States Postal Service and performing a duty for that agency that requires the operator to service postal boxes from a vehicle or that requires frequent entry into and exit from a vehicle;

(4) the person is engaged in the actual delivery of newspapers from a vehicle or is performing newspaper delivery duties that require frequent entry into and exit from a vehicle;

(5) the person is employed by a public or private utility company and is engaged in the reading of meters or performing a similar duty for that company requiring the operator to frequently enter into and exit from a vehicle; [~~or~~]

(6) the [~~The~~] person is operating a commercial vehicle registered as a farm vehicle under the provisions of Section 502.163 that does not have a gross weight, registered weight, or gross weight rating of 48,000 pounds or more; or

(7) the person is the operator of or a passenger in a vehicle used exclusively to transport solid waste and performing duties that require frequent entry into and exit from the vehicle.

SECTION __.02. The change in law made by this Act to Section 545.413(e), Transportation Code, as amended by this Act, applies to an offense under Section 545.413(a) of that code regardless of whether the offense was committed before, on, or after the effective date of this Act.

ADOPTED
MAY 08 2009
Robert Haney
Chief Clerk
House of Representatives

ENGROSSED RIDER NO.137 811769

FLOOR AMENDMENT NO. 164 BY: Naishtat

Amend Amendment No. 163 by Hughes to C.S.H.B. No. 300 (#811548), on page 1 of the amendment, between lines 4 and 5, by inserting the following SECTION in the amendment and renumbering subsequent SECTIONS accordingly:

SECTION __.01 Sections 545.412(e) and (f), Transportation Code, are amended to read as follows:

(e) This section does not apply to a person:

(1) operating a vehicle transporting passengers for hire, excluding [~~including~~] third-party transport service providers when transporting clients pursuant to a contract to provide nonemergency Medicaid transportation; or

(2) transporting a child in a vehicle in which all seating positions equipped with child passenger safety seat systems or safety belts are occupied.

(f) In this section:

(1) "Child passenger safety seat system" means an infant or child passenger restraint system that meets the federal standards for crash-tested restraint systems as set by the National Highway Traffic Safety Administration.

(2) "Passenger vehicle" means a passenger car, light truck, sport utility vehicle, passenger van designed to transport 15 or fewer passengers, including the driver, truck, or truck tractor.

(3) "Safety belt" means a lap belt and any shoulder straps included as original equipment on or added to a vehicle.

(4) "Secured," in connection with use of a safety belt, means using the lap belt and any shoulder straps according to the instructions of:

(A) the manufacturer of the vehicle, if the safety belt is original equipment; or

(B) the manufacturer of the safety belt, if the safety belt has been added to the vehicle.

811622

ENGROSSED RIDER NO.138

FLOOR AMENDMENT NO. 165 BY: _____

Amend C.S.H.B. No. 300 (House committee printing) by adding the following ARTICLE to the bill, appropriately numbered, and renumbering subsequent ARTICLES accordingly:

ARTICLE __. MOTOR VEHICLE SAFETY RESPONSIBILITY

SECTION ___.01. Section 601.053, Transportation Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Except as provided by Subsection (c), an [~~An~~] operator who does not exhibit evidence of financial responsibility under Subsection (a) is presumed to have operated the vehicle in violation of Section 601.051.

(c) Subsection (b) does not apply if the peace officer determines through use of the verification program established under Subchapter N that financial responsibility has been established for the vehicle.

09 MAY -6 PM 8:33
HOUSE OF REPRESENTATIVES

ADOPTED
MAY 08 2009
Robert Haney
Chief Clerk
House of Representatives

81R31866 JD-D

ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives



ENGROSSED RIDER NO.139

AMENDMENT NO. 166

09 MAY -6 PM 9:34

David Swinford

HOUSE OF REPRESENTATIVES

Amend C.S.H.B No. 300 (house committee printing) by adding the following ARTICLE to the bill, appropriately numbered, and renumbering subsequent ARTICLES accordingly:

ARTICLE ___. MOTOR CARRIER OVERSIZE AND OVERWEIGHT PERMITS

SECTION ___.01. Subchapter D, Chapter 623, Transportation Code, is amended by adding Section 623.0711 to read as follows:

Sec. 623.0711. PERMITS AUTHORIZED BY COMMISSION ORDER. (a) The commission by order may authorize the department to issue a permit to a motor carrier, as defined by Section 643.001, to transport multiple loads of the same commodity over a state highway if all of the loads are traveling from and to the same general locations.

(b) The commission may not authorize the issuance of a permit that would violate federal regulations on size and weight requirements or authorize the issuance of a permit for equipment that could reasonably be dismantled for transportation as separate loads.

(c) To be eligible for a permit under this section, the department must determine that the state will benefit from the issuance of this type of expedited permitting process.

(d) Before the commission may adopt an order under this section, the department must complete a route and engineering study that considers:

(1) the estimated number of loads to be transported by the motor carrier under the permit;

(2) the size and weight of the commodity;

(3) available routes that can accommodate the size and weight of the vehicle and load to be transported;

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P. 162

(4) the potential roadway damage caused by repeated use of the road by the permitted vehicle;

(5) any disruption caused by the movement of the permitted vehicle; and

(6) safety to the traveling public.

(e) The commission may impose on the motor carrier any condition regarding routing, time of travel, axle weight, and escort vehicles necessary to ensure safe operation and minimal damage to the roadway.

(f) A permit issued under this section may provide multiple routes to reach the destination to minimize damage to the roadways.

(g) The commission shall require the motor carrier to file a bond in an amount set by the commission, payable to the department and conditioned on the motor carrier paying to the department any damage that is sustained to a state highway because of the operation of a vehicle under a permit issued under this section.

(h) The fee for a permit under this section may not exceed $7,000.

(i) The executive director or the executive director's designee may suspend a permit issued under this section or alter a designated route because of:

(1) a change in pavement conditions;

(2) a change in traffic conditions;

(3) a geometric change in roadway configuration;

(4) construction or maintenance activity; or

(5) emergency or incident management.

(j) Permits issued under this section are subject to the administrative sanctions of Subchapter N.

SECTION ___.02 Section 623.071, Transportation Code, is

amended by adding Subsection (h) to read as follows:

(h) On completion of a route and engineering study, a single trip permit that exceeds the length established by Subsection (c) may be issued by the department and used in conjunction with an annual permit issued under Subsection (c) if the department determines that the additional length can be transported safely.

811709

ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

09 MAY -6 PM 9:44

HOUSE OF REPRESENTATIVES

ENGROSSED RIDER NO.140

FLOOR AMENDMENT NO. 167 BY: Phillips

Amend C.S.H.B. No. 300 (House committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE __. COUNTY TRAFFIC OFFICERS

SECTION ____.01. Section 701.006, Transportation Code, is amended to read as follows:

Sec. 701.006. [~~COMPLAINT; HEARING;~~] DISMISSAL.

[~~(a) If a county traffic officer fails to perform the officer's duty to enforce the law, the district engineer of the Texas Department of Transportation district in which the officer operates may send a written, signed complaint to the commissioners court.~~

[~~(b) On receipt of the complaint, the commissioners court shall hold a hearing and summon the officer to appear before it.~~

[~~(c) If the commissioners court determines at the hearing that the officer has not performed the officer's duty, the commissioners court shall immediately discharge the officer and promptly employ another officer.~~

[~~(d)~~] The commissioners court on its own initiative, or on recommendation of the sheriff, may dismiss a county traffic officer if the officer is no longer needed or if the officer's service is unsatisfactory.

SECTION ____.02. Section 701.002(b), Transportation Code, is repealed.

ADOPTED
MAY 08 2009
Robert Haney
Chief Clerk
House of Representatives

811460

ENGROSSED RIDER NO.141

09 MAY -5 PM 8:00

HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. 168 BY: _____

Amend C.S.H.B. No. 300 by adding the following ARTICLE to the bill and renumbering subsequent ARTICLES accordingly:

ARTICLE _____. ABANDONED AND JUNKED VEHICLES

SECTION _____.01. Section 683.071, Transportation Code, is amended to read as follows:

Sec. 683.071. DEFINITION. In this subchapter, "junked vehicle" means a vehicle that is self-propelled and:

(1) displays an expired license plate or invalid motor vehicle inspection certificate or does not display a license plate or motor vehicle inspection certificate; and [~~have lawfully attached to it:~~

[~~(A) an unexpired license plate; and~~

[~~(B) a valid motor vehicle inspection certificate; and~~]

(2) is:

(A) wrecked, dismantled or partially dismantled, or discarded; or

(B) inoperable and has remained inoperable for more than:

(i) 72 consecutive hours, if the vehicle is on public property; or

(ii) 30 consecutive days, if the vehicle is on private property.

477

811670

ENGROSSED RIDER NO.142

09 MAY -6 PM 2:49
HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. 169 BY: _____

Amend C.S.H.B. No. 300 (House committee printing) by adding the following ARTICLE to the bill, appropriately numbered, and renumbering subsequent ARTICLE accordingly:

ARTICLE ___. TRANSPORTATION OF FIREWORKS

SECTION __.01. Chapter 750, Transportation Code, is amended by adding Section 750.004 to read as follows:

Sec. 750.004. TRANSPORTATION OF FIREWORKS. The transportation of fireworks in unopened and original packaging may not be prohibited or regulated.

ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

1 478

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ADOPTED

MAY 08 2009

Chief Clerk
House of Representatives

811615

ENGROSSED RIDER NO.143

2009 MAY -5 PM 8:03

HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. 170 BY: _____

Amend C.S.H.B. No. 300 (House committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill appropriately:

ARTICLE ___. K-9 LAW ENFORCEMENT VEHICLES

SECTION __.01. Subchapter A, Chapter 821, Health and Safety Code, is amended by adding Section 821.005 to read as follows:

Sec. 821.005. HEAT ALARM SYSTEM IN K-9 LAW ENFORCEMENT VEHICLES. (a) In this section, "law enforcement agency" means:

(1) the Department of Public Safety;

(2) the sheriff's department of a county; or

(3) the police department of a municipality.

(b) A law enforcement agency may equip each vehicle used in a K-9 law enforcement program with a heat alarm system that is activated when the vehicle stops running or the temperature in the vehicle's interior becomes dangerous to a police dog in the vehicle. The system when activated must:

(1) activate an audible alarm;

(2) automatically lower the vehicle's rear windows; and

(3) page the K-9 law enforcement officer.

(c) This section does not apply to an open-air vehicle used in connection with a K-9 law enforcement program.

SECTION __.02. A vehicle used in a K-9 law enforcement program equipped with a heat alarm system on the effective date of this Act is not required to meet the standards under Section 821.005, Health and Safety Code, as added by this Act, before January 1, 2011.

81R31878 JSC-D 1



ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 171 BY: Gallego

ENGROSSED RIDER NO.144

Amend C.S.H.B. No. 300 (house committee printing) by adding the following ARTICLE to the bill, appropriately numbered, and renumbering subsequent ARTICLES accordingly:

ARTICLE __. ACCEPTANCE OF ELECTRONIC CHECK AND CREDIT CARD PAYMENTS BY COUNTY TAX ASSESSOR-COLLECTORS

SECTION ____.01. Subchapter A, Chapter 130, Local Government Code, is amended by adding Section 130.0025 to read as follows:

Sec. 130.0025. REQUIRED ACCEPTANCE OF CHECK OR CREDIT CARD PAYMENT. Notwithstanding Section 130.002, a county tax assessor-collector shall accept a check or credit card invoice for the payment of:

(1) motor vehicle registration fees under Chapter 502, Transportation Code; and

(2) motor vehicle title transfer fees under Chapter 501, Transportation Code.

SECTION ____.02. Subchapter B, Chapter 130, Local Government Code, is amended by adding Section 130.00465 to read as follows:

Sec. 130.00465. REQUIRED ACCEPTANCE OF PAYMENTS BY ELECTRONIC MEANS. Notwithstanding Section 130.00465, a county tax assessor-collector shall accept payment by electronic means as conditional payment of a county or state fee or tax.



ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

ENGROSSED RIDER NO.145

FLOOR AMENDMENT NO. 172 BY: Janet F Coleman

Amend C.S.H.B. No. 300 (House committee printing) by adding the following appropriately numbered SECTION to ARTICLE 1 of the bill and renumbering subsequent SECTIONS of that article accordingly:

SECTION 1.___. Section 201.109(b), Transportation Code, is amended to read as follows:

(b) In carrying out this section, the commission shall provide for:

(1) [~~maximizing the generation of revenue from existing assets of the department, including real estate;~~

[~~(2) increasing the role of the private sector and public-private projects in the leasing of real estate and other assets in the development of highway projects;~~

[~~(3)~~] setting and attempting to meet annual revenue enhancement goals;

(2) [~~(4)~~] reporting on the progress in meeting revenue enhancement goals in the department's annual report;

(3) [~~(5)~~] contracting for an independent audit of the department's management and business operations in 2007 and each 12th year after 2007; and

(4) [~~(6)~~] developing a cost-benefit analysis between the use of local materials previously incorporated into roadways versus use of materials blended or transported from other sources[~~; and~~

[~~(7) increasing private investment in the transportation infrastructure, including the acquisition of causeways, bridges, tunnels, turnpikes, or other transportation facilities, in the border region, including the counties of Atascosa, Bandera, Bexar, Brewster, Brooks, Cameron, Crockett,~~

~~Culberson, Dimmit, Duval, Edwards, El Paso, Frio, Hidalgo, Hudspeth, Jeff Davis, Jim Hogg, Jim Wells, Kenedy, Kerr, Kimble, Kinney, Kleberg, La Salle, Live Oak, Maverick, McMullen, Medina, Nueces, Pecos, Presidio, Real, Reeves, San Patricio, Starr, Sutton, Terrell, Uvalde, Val Verde, Webb, Willacy, Zapata, and Zavala~~].

811857

ADOPTED

MAY 08 2009

Robert Haney
Chief Clerk
House of Representatives

AS Amended

ENGROSSED RIDER NO.146

FLOOR AMENDMENT NO. 180 BY: G Dunn

Amend C.S.H.B. No. 300 (House committee printing), by striking page 57, line 13, through page 58, line 3, and substituting the following:

Sec. 472.0315. POLICY BOARD MEMBERSHIP AND VOTING REQUIREMENTS; ELIGIBILITY FOR STATE ALLOCATION OF FUNDING. (a) The policy board of a metropolitan planning organization must consist of at least 5 and not more than 19 members, the exact number to be determined on an equitable geographic-population ratio based on the most recent census.

(b) To be eligible to receive funds from this state for transportation projects under Section 201.668:

(1) at least 75 percent of a metropolitan planning organization's policy board members must be elected officials who are elected in the boundaries of the metropolitan planning organization; and

(2) only elected officials may be voting members of the organization's policy board.

(c) A metropolitan planning organization that is not eligible under Subsection (b) may redesignate the board so as to become eligible to receive an allocation of funds under Section 201.668.

(d) In this section, "elected official" means the presiding officer or a member of the governing body of a municipality, a county judge, a county commissioner, a state representative, or a state senator.

483

ENGROSSED RIDER NO.147



ADOPTED
MAY 08 2009
Robert Haney
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 181 BY: J Davis

Amend Floor Amendment No. 180 to C.S.H.B. No. 300 by Davis (page 313, pre-filing packet) as follows:

(1) On line 5 between "REQUIREMENTS" and the semicolon, insert "IN CERTAIN AREAS".

(2) Strike lines 6-9 and substitute as follows:

"The policy board of a metropolitan planning organization that serves two adjacent counties that each have a population of one million or more must consist of not less than three members of the legislature elected from the area served by the organization."

811859

ENGROSSED RIDER NO.148

FLOOR AMENDMENT NO. 182 BY: [signature]

Amend Floor Amendment No. 180 by _____ to C.S.H.B. No. 300 (page ___ of the prefiled amendments packet) by adding the appropriately numbered item:

(__) Add the following appropriately numbered SECTION and renumber subsequent SECTIONS accordingly:

SECTION ___.___ Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.6105 to read as follows:

Sec. 201.6105. STUDY ON SOUND BARRIER ON CERTAIN HIGHWAYS. (a) The department shall conduct a study on the construction of sound barrier walls with beautification elements along the east side of State Highway 288 in Houston, from the intersection of State Highway 288 and South MacGregor Way to the intersection of State Highway 288 and West Orem Drive.

(b) The department shall submit the results of the study to the commission not later than December 31, 2010.

ADOPTED
MAY 08 2009
Chief Clerk
House of Representatives

9.128.87 SLB



ADOPTED

MAY 08 2009

Chief Clerk
House of Representatives

ENGROSSED RIDER NO.149

FLOOR AMENDMENT NO. 183

#180

Amend Floor Amendment No. ~~173~~ by Davis to C.S.H.B. No. 300 by adding the appropriately numbered item:

(__) Add the following appropriately numbered SECTION and renumber subsequent SECTIONS accordingly:

SECTION ___.___. Section 504.201, Transportation Code, is amended by amending Subsection (d) and adding Subsection (i) to read as follows:

(d) Subject to Subsection (i), the [~~The~~] initial application for specialty license plates under this section must be accompanied by a written statement from a physician who is licensed to practice medicine in this state or in a state adjacent to this state or who is authorized by applicable law to practice medicine in a hospital or other health facility of the Department of Veterans Affairs. If the applicant has a mobility problem caused by a disorder of the foot, the written statement may be issued by a person licensed to practice podiatry in this state or a state adjacent to this state. In this subsection, "podiatry" has the meaning assigned by Section 681.001. The statement must certify that the person making the application or on whose behalf the application is made is legally blind or has a mobility problem that substantially impairs the person's ability to ambulate. The statement must also certify whether a mobility problem is temporary or permanent. A written statement is not required as acceptable medical proof if:

(1) the person with a disability:

(A) has had a limb, hand, or foot amputated; or

(B) must use a wheelchair; and

(2) the applicant and the county assessor-collector processing the application execute an affidavit attesting to the person's disability.

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(i) If the initial application for specialty license plates under this section is made by or on behalf of a person with a mobility problem that substantially impairs the person's ability to ambulate, the written statement required by Subsection (d) may be issued by a person licensed to practice chiropractic in this state or a state adjacent to this state. In this subsection, "chiropractic" has the meaning assigned by Section 201.002, Occupations Code.

SECTION 2. Section 681.003, Transportation Code, is amended by amending Subsection (c) and adding Subsection (f) to read as follows:

(c) Subject to Subsections [~~Subsection~~] (e) and (f), the first application must be accompanied by a notarized written statement or written prescription of a physician licensed to practice medicine in this state or a state adjacent to this state, or authorized by applicable law to practice medicine in a hospital or other health facility of the Veterans Administration, certifying and providing evidence acceptable to the department that the person making the application or on whose behalf the application is made is legally blind or has a mobility problem that substantially impairs the person's ability to ambulate. The statement or prescription must include a certification of whether the disability is temporary or permanent and information acceptable to the department to determine the type of disabled parking placard for which the applicant is eligible. The department shall determine a person's eligibility based on evidence provided by the applicant establishing legal blindness or mobility impairment.

(f) If a first application for a disabled parking placard under this section is made by or on behalf of a person with a mobility problem that substantially impairs the person's ability to ambulate, the notarized written statement or written

prescription required by Subsection (c) may be issued by a person licensed to practice chiropractic in this state or a state adjacent to this state. In this subsection, "chiropractic" has the meaning assigned by Section 201.002, Occupations Code.

3rd Reading

811964

ADOPTED

MAY 11 2009

Robert Haney
Chief Clerk
House of Representatives

Phillips

ENGROSSED RIDER NO.150

FLOOR AMENDMENT NO. 1 BY: Donnan

Amend H.B. No. 300 on third reading as follows:

(1) In Subchapter E, Chapter 223, Transportation Code, as redesignated, renumbered, and amended as Subchapter E, Chapter 371, Transportation Code, on second reading by Floor Amendment No. 131 by Phillips, following Section 223.209, Transportation Code, as redesignated, renumbered, and amended as Section 371.309, Transportation Code, add the following:

Sec. 371.310. APPLICABILITY. Notwithstanding any provision of this subchapter to the contrary, a restriction on the department in connection with a comprehensive development agreement, applies equally to a toll project entity.

(2) Amend Section 201.211, Transportation Code, as added by C.S.H.B. No. 300, on page 8, as follows:

(a) On line 12, strike "or a department employee", and substitute, ", the governing body of a toll project entity, as defined by Chapter 371, or an employee of the department or a toll project entity".

(b) On line 13, between "department's" and "control", insert "or the toll project entity's".

(3) Amend Section 223.213, Transportation Code, as added by Floor Amendment No. 70 by Farrar, by redesignating that section as 371.312, Transportation Code, and amending that section to read as follows:

Sec. 371.312. PROHIBITION AGAINST NONCOMPETITION PROVISIONS. Notwithstanding Section 371.103(b), a toll project entity may not enter into a comprehensive development agreement for a toll project, including a managed lane, that contains a provision that limits or prohibits the construction, reconstruction, expansion, rehabilitation, operation, or maintenance of a nontolled highway by the toll project entity or

a provision that requires the toll project entity to reimburse a private entity for the loss of toll revenue attributable to the construction of a nontolled highway.

(4) Amend Section 223.214, Transportation Code, as added by Floor Amendment No. 63 by Rodriquez, by redesignating that section as 371.311, Transportation Code.

(5) (a) Amend Section 223.0043, Transportation Code, as added by Floor Amendment No. 61 by Moody, by redesignating that section as 371.313, Transportation Code, and amending added Subsections (d), (e), and (f) to read as follows:

(d) A business entity that has not made a political contribution or a lobbying expenditure that must be disclosed under Subsection (c) shall, within the time prescribed by that subsection, deliver to the chief administrative officer of the applicable toll project entity or the that officer's designee a written statement that the business entity has not made a political contribution or lobbying expenditure that must be disclosed.

(e) On receipt of information under Subsection (c) or (d), the toll project entity shall promptly publish the information on the entity's Internet website.

(f) A toll project entity may not consider a bid submitted by a business entity that does not comply with this section.

(b) Add a new SECTION to the bill, appropriately numbered, to read as follows and renumbering sections accordingly:

SECTION __. Section 371.313, Transportation Code, as added by this Act, applies only to a bid submitted for a contract as to which the initial notice is published on or after September 1,2009.

ADOPTED

3rd Reading

MAY 11 2009

Chief Clerk
House of Representatives

811938

ENGROSSED RIDER NO.151

FLOOR AMENDMENT NO. 2 BY:

Amend H.B. No. 300 on third reading by amending Section 371.301(a), Transportation Code, as redesignated, renumbered, and amended on second reading by Floor Amendment No. 131 by Phillips, to read as follows:

(a) Subject to Section 371.302 [~~223.202~~], a toll project entity [~~the department~~] may enter into a comprehensive development agreement with a private entity to design, develop, finance, construct, maintain, repair, operate, extend, or expand a:

(1) toll project;

(2) [~~facility or a combination of facilities on the Trans-Texas Corridor;~~]

[~~(3)~~] state highway improvement project that includes both tolled and nontolled lanes and may include nontolled appurtenant facilities;

(3) [~~(4)~~] state highway improvement project in which the private entity has an interest in the project; or

(4) [~~(5)~~] state highway improvement project financed wholly or partly with the proceeds of private activity bonds, as defined by Section 141(a), Internal Revenue Code of 1986.

3rd Reading

811957

ENGROSSED RIDER NO.152 3

FLOOR AMENDMENT NO. ____

ADOPTED

MAY 11 2009

Chief Clerk
House of Representatives

BY: Phillips

Amend H.B. No. 300 on third reading as amended by Floor Amendment No. 131 by Phillips by striking Subsection (a) of Section 371.301, Transportation Code (page 1, lines 4-19 of the amendment), as renumbered and amended by the amendment and substituting:

(a) Subject to Section 371.302 [~~223.202~~], a toll project entity [~~the department~~] may enter into a comprehensive development agreement with a private entity to design, develop, finance, construct, maintain, repair, operate, extend, or expand a:

(1) toll project;

(2) [~~facility or a combination of facilities on the Trans Texas Corridor~~];

[(3)] state highway improvement project that includes both tolled and nontolled lanes and may include nontolled appurtenant facilities;

(3)[(4)] state highway improvement project in which the private entity has an interest in the project; [~~or~~]

(4)[(5)] state highway improvement project financed wholly or partly with the proceeds of private activity bonds, as defined by Section 141(a), Internal Revenue Code of 1986; or

(5) for a regional mobility authority, a transportation project as defined by Section 370.003.

492

9.131.290 JTS



3rd Reading

ADOPTED

MAY 11 2009

Robert Haney
Chief Clerk
House of Representatives

ENGROSSED RIDER NO.153

FLOOR AMENDMENT NO. 4 BY: Phillips

Amend H.B. No. 300 on third reading as amended by Floor Amendment No. 131 by Phillips by striking Subsection (f) of Section 371.301, Transportation Code (page 2, lines 21-23), as renumbered and amended by the amendment and substituting:

(f) Except as provided by Subsections (h) and (i), the authority to enter into comprehensive development agreements provided by this section expires on August 31, 2013 [~~2009~~].



ADOPTED - 3rd Reading

MAY 1 1 2009

Chief Clerk
House of Representatives

ENGROSSED RIDER NO.154

FLOOR AMENDMENT NO. 5 BY: Phillips

Amend H.B. No. 300 on third reading as in SECTION 3.04 of the bill, in amended Section 228.201(a)(2), Transportation Code, strike "into" and substitute "in".

09 MAY -8 PM 1:02
HOUSE OF REPRESENTATIVES

9.128.150 SLB

3rd Reading

811923

09 MAY 11 AM 8:30

HOUSE OF REPRESENTATIVES

ENGROSSED RIDER NO.155

ADOPTED

MAY 11 2009

Robert Haney
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 7 BY: Gallego

Amend House Bill 300 on Third Reading by adding the appropriately numbered section to read as follows:

SECTION ____. PRESIDIO INTERNATIONAL BRIDGE. Up verification that the County of Presidio and the City of Presidio have obtained the appropriate financing, the Department shall sell and convey the Presidio International Bridge to the City and County of Presidio at cost. Such sale shall be expeditiously handled in accordance with applicable state and federal laws. The Department may maintain up to a 10% minority share of ownership so long as such ownership does not preclude the City and County from charging a toll for use of the bridge by passenger, commercial, pedestrian or other traffic.

ADOPTED

MAY 11 2009

Robert Haney
Chief Clerk
House of Representatives



3rd Reading

ENGROSSED RIDER NO.156

FLOOR AMENDMENT NO. 8 BY: Hall

Amend H.B. No. 300 on third reading by amending Section 228.201, Transportation Code, as amended by Floor Amendment No. 57 by Leibowitz, by adding Subsection (a-1) to read as follows:

(a-1) Subsection (a) does not apply to a port of entry, as defined by Section 621.001.

09 MAY 11 AM 9:42
HOUSE OF REPRESENTATIVES

496

9.131.60 JD

ADOPTED

MAY 1 1 2009

Robert Haney
Chief Clerk
House of Representatives



3rd Reading

ENGROSSED RIDER NO.157

FLOOR AMENDMENT NO. 9

BY: Phillips

Amend H.B. No. 300 on third reading as amended by Floor Amendment No. 99 by Paxton to Amendment No. 54 by Smith in added Subdivision (9) to Section 371.105(d), Transportation Code (page 1, line 9 of the amendment to the amendment), by striking "into" and substituting "in".



ADOPTED

MAY 11 2009

Robert Haney
Chief Clerk
House of Representatives

3rd Reading

ENGROSSED RIDER NO.158

FLOOR AMENDMENT NO. 10 BY

Amend C.S.H.B. 300 on third reading by adding a new section, appropriately numbered to read as follows, renumbering the sections of the bill accordingly:

SECTION ____. Notwithstanding any other provision of this Act, the changes made in law by this Act do not apply to the following enumerated projects. Such projects are governed by the law as it existed immediately before the effective date of the Act, and those provisions are continued in effect for that purpose. The projects subject to this section are:

(1) All segments of State Highway 130 from Georgetown to Seguin.



3rd Reading

ENGROSSED RIDER NO.159

FLOOR AMENDMENT NO. 11 BY: T. King

Roberto R. Alonzo

Amend H.B. No. 300 on third reading by amending Section 201.903(c), Transportation Code, as added by Floor Amendment No. 26 on second reading, to read as follows:

(c) To the extent allowed by federal law, each department sign on Interstate Highway 35 that identifies an intersection of that highway and U.S. Highway 57 and includes the name of a municipality or an unincorporated community located on U.S. Highway 57 must also contain the words "Crystal City."

ADOPTED

MAY 11 2009

Robert Haney
Chief Clerk
House of Representatives

09 MAY -7 PM 11:31
HOUSE OF REPRESENTATIVES

499

9.127.705 JD

3rd Reading

811975

ENGROSSED RIDER NO.160

FLOOR AMENDMENT NO. 13

BY: Wayne Smith

Amend H.B. No. 300 on third reading by striking Section 372.161, Transportation Code, as added on second reading by Floor Amendment No. 125 by Pickett.

ADOPTED

MAY 11 2009

Robert Haney
Chief Clerk
House of Representatives

560

9.131.42 JD



3rd Reading

ENGROSSED RIDER NO.161 14

FLOOR AMENDMENT NO. ____ BY: Pickett

Amend H.B. No. 300 on third reading by amending Section 370.251(a-2), Transportation Code, as added by the floor amendment by Pickett on page 287, amendment packet, to read as follows:

(a-2) The governing body of a municipality that creates a municipal mobility authority, by ordinance or resolution may provide that the governing body of the municipality serves as the board of the authority, with the presiding officer of the governing body of the municipality serving as the presiding officer of the board.

ADOPTED

MAY 11 2009

Robert Haney

Chief Clerk
House of Representatives

811922

ENGROSSED RIDER NO.162

FLOOR AMENDMENT NO. 15

ADOPTED

MAY 11 2009

By: Robert Haney
Chief Clerk
House of Representatives

HOUSE OF REPRESENTATIVES

3rd Reading

Amend C.S.H.B. No. 300 (House Committee printing), 81st Legislative Session, on third reading by amending and adding appropriately numbered Section(s) of the Bill, and renumbering the sections of the bill appropriately to read as follows:

Chapter 201, Title 6, Subtitle A, Transportation Code, is amended by adding and amending appropriately lettered and numbered Subchapter and Section references, relating to the abolition of the Texas Transportation Commission and the creation of the commissioner of transportation as an elected statutory state officer, to read as follows:

On Page 1, after line 8 and before line 9, Section 201.003, Transportation Code, is amended to read as follows:

Sec. 201.003. TITLE AND ORGANIZATIONAL CHANGES. (a) A reference in law to the State Highway Department, Texas Highway Department, or State Department of Highways and Public Transportation means the Texas Department of Transportation.

(b) A reference in law to the State Highway Commission, [~~or~~] State Highway and Public Transportation Commission, or Texas Transportation Commission means the elected commissioners of transportation [~~Texas Transportation Commission~~].

(c) A reference in law to the State Highway Engineer, [~~or~~] State Engineer-Director for Highways and Public Transportation, or [~~means~~] the director of the Texas Department of Transportation means the chair of the commission of transportation.

(d) [~~A reference in law to the commissioner of transportation means the chair of the commission.~~

[~~(c)~~] A [~~reference in~~] law that authorizes the Texas Transportation Commission to authorize the director of the Texas Department of Transportation to take an action shall be

A 502

construed to authorize the chair of the commission of transportation to take that action [~~to a member of the commission means a commissioner~~].

On page 2, after line 9, Subchapter B, Chapter 201, Transportation Code, is amended by adding subparagraphs (1) - (5) to subparagraph (a) of Sec. 201.051, by inserting and renumbering subparagraphs (f) - (j) as subparagraphs (a)(1) - (a)(4) and adding a new subparagraph (a)(5), renumbering former subparagraph (b) as new subparagraph (c), and repealing former subparagraphs (c) and (i) of Section 201.051, to read as follows:

SUBCHAPTER B. TEXAS TRANSPORTATION COMMISSION

Sec. 201.051. COMMISSION. (a) The Texas Transportation Commission shall consist of ~~five~~ fifteen (15) members, ~~appointed by the governor with the advice and consent of the senate,~~ fourteen (14) of whom shall be elected from geographic districts and one (1) of whom shall be elected at large and serve as chair of the commission.

(1) [~~(f)~~] An officer, employee, or paid consultant of a Texas trade association in the field of road construction or maintenance, aviation, or outdoor advertising or a Texas trade association of automobile dealers is not eligible for election or appointment as commissioner [~~may not be a member of the commission~~].

(2) [~~(g)~~] The spouse of an officer, manager, or paid consultant of a Texas trade association in the field of road construction or maintenance, aviation, or outdoor advertising or a Texas association of automobile dealers is not eligible for election or appointment as commissioner [~~may not be a member of the commission~~].

(3) [~~(h)~~] A person required to register as a lobbyist under Chapter 305, Government Code, because of the person's

activities for compensation on behalf of a profession related to the operation of the department is not eligible for election or appointment as commissioner [~~may not serve as a member of the commission~~].

(4) [~~(j)~~] In this section, "Texas trade association" means a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(5) The elected commissioners reconstituted as the Texas Transportation Commission shall be the successors to the appointed Texas Transportation Commission for all purposes, including for the purposes of Sections 49-k, 49-l, 49-m, 49-n, and 49-o, Article III, Texas Constitution.

(b) ~~[The members shall be appointed to reflect the diverse geographic regions and population groups of this state. One member must reside in a rural area.~~ The legislature shall, at its first regular session after the publication of each United States decennial census, reapportion the geographic districts described in Subsection (a). The districts shall be substantially equal in population, according to the most recent United States decennial census. The legislature shall consider county lines, senatorial and representative districts, and commissioners' precincts in the reapportionment process.

[~~(c) Each member of the commission must represent the general public.~~

(c) [~~Except as provided by Subsection (e), a person is not eligible for appointment as a member of the commission if the~~] To be eligible for election as commissioner, or appointment to fill a vacancy in the office of commissioner, a person or the person's spouse may not:

(1) be [~~is~~] employed by or participate [~~participates~~] in the management of a business entity or other organization that is regulated by or receives funds from the department;

(2) directly or indirectly own or control [~~owns or controls~~] more than 10 percent interest in a business entity or other organization that is regulated by or receives funds from the department;

(3) use or receive [~~uses or receives~~] a substantial amount of tangible goods, services, or funds from the department, other than compensation or reimbursement authorized by law for [~~commission membership, attendance, or~~] expenses; or

(4) be [~~is~~] registered, certified, or licensed by the department.

[~~(i) Appointments to the commission shall be made without regard to race, color, disability, sex, religion, age, or national origin of the appointees and shall reflect the diversity of the population of the state as a whole.~~]

On Page 2 after line 19, and before Page 4, line 3, Sections 201.053, 201.054, 201.0545, 201.056, 201.057, 201.058, and 201.059 of the Transportation Code are amended and renumbered appropriately as follows:

Sec. 201.053. CHAIR OF THE COMMISSION. (a) The member of the commission elected at large is [~~The governor periodically shall designate one commissioner as~~ the chair of the commission, who shall serve as presiding officer of the commission.

(b) The chair shall:

(1) preside over commission meetings, make rulings on motions and points of order, and determine the order of business;

(2) represent the department in dealing with the governor;

(3) report to the governor on the state of affairs of

the department at least quarterly;

(4) [~~report to the commission the governor's suggestions for department operations;~~

[~~(5)~~] report to the governor on efforts, including legislative requirements, to maximize the efficiency of department operations through the use of private enterprise;

(5) [~~(6)~~] periodically review the department's organizational structure and submit recommendations for structural changes to the governor, the commission, and the Legislative Budget Board;

(6) [~~(7)~~] designate one or more employees of the department as a civil rights division of the department and receive regular reports from the division on the department's efforts to comply with civil rights legislation and administrative rules;

(7) [~~(8)~~] create subcommittees, appoint commissioners to subcommittees, and receive the reports of subcommittees to the commission as a whole;

(8) [~~(9)~~] may appoint a deputy commissioner to act in the chair's absence; and

(9) [~~(10)~~] serve as the departmental liaison with the governor and the Office of State-Federal Relations to maximize federal funding for transportation.

Sec. 201.053 [~~201.0545~~]. RECOMMENDATIONS TO LEGISLATURE. (a) The commission shall consider ways in which the department's operations may be improved and may periodically report to the legislature concerning potential statutory changes that would improve the operation of the department.

(b) On behalf of the commission, the chair shall report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of relevant legislative committees on legislative recommendations adopted by

the commission and relating to the operation of the department.

Sec. 201.054 [~~201.056~~]. COMPENSATION. The commissioners [~~A member of the commission~~] are entitled to compensation as provided by the General Appropriations Act. If compensation for the commissioners [~~members~~] is not provided by that Act, the commissioners [~~each member~~] is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a commissioner [~~a member of the commission~~].

Sec. 201.055 [~~201.057~~]. GROUNDS FOR REMOVAL. [~~(a)~~] It is a ground for removal [~~from the commission~~] if a commissioner:

(1) does not have at the time of election or appointment or maintain during service as commissioner [~~on the commission~~] the qualifications required by this chapter;

(2) violates a prohibition provided by this chapter; or

(3) cannot discharge the commissioner's duties for a substantial part of the term for which the commissioner is elected or appointed because of illness or disability[~~; or~~

[~~(4) is absent from more than half of the regularly scheduled commission meetings that the commissioner is eligible to attend during a calendar year, unless the absence is excused by majority vote of the commission~~].

[~~(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commissioner exists.~~

[~~(c) If the director knows that a potential ground for removal exists, the director shall notify the chair of the commission of the ground, and the chair shall notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal relates to the chair, the director shall notify another commissioner, who shall notify the governor and the attorney general that a~~

~~potential ground for removal exists.~~]

Sec. 201.056 [~~201.058~~]. INFORMATION ON QUALIFICATIONS AND CONDUCT. The department shall provide to the commissioners [~~members of the commission~~], as often as necessary, information concerning the commissioners' [~~members'~~] qualifications for office and the commissioners' [~~under Subchapter B and their~~] responsibilities under applicable laws relating to standards of conduct for state officers.

[~~Sec. 201.059. TRAINING ON DEPARTMENT AND CERTAIN LAWS RELATING TO DEPARTMENT. (a) To be eligible to take office as a member of the commission, a person appointed to the commission must complete at least one course of a training program that complies with this section.~~

[~~(b) The training program must provide information to the person regarding:~~

[~~(1) this subchapter;~~

[~~(2) the programs operated by the department;~~

[~~(3) the role and functions of the department;~~

[~~(4) the rules of the department with an emphasis on the rules that relate to disciplinary and investigatory authority;~~

[~~(5) the current budget for the department;~~

[~~(6) the results of the most recent formal audit of the department;~~

[~~(7) the requirements of the:~~

[~~(A) open meetings law, Chapter 551, Government Code;~~

[~~(B) open records law, Chapter 552, Government Code; and~~

[~~(C) administrative procedure law, Chapter 2001, Government Code;~~

[~~(8) the requirements of the conflict of interest~~

~~laws and other laws relating to public officials; and~~

[~~(9) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.~~

[~~(c) A person appointed to the commission is entitled to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act and as if the person were a member of the commission.~~]

At page 6, after line 12, Sections 201.201 and 201.202, Transportation Code, are amended to read as follows:

Sec. 201.201. GOVERNANCE OF DEPARTMENT. The commission governs the Texas Department of Transportation.

Sec. 201.202. DIVISIONS; DIVISION PERSONNEL. (a) The commission shall organize the department into divisions to accomplish the department's functions and the duties assigned to it, including divisions for:

(1) aviation;

(2) highways and roads;

(3) public transportation; and

(4) rail transportation [~~motor vehicle titles and registration~~].

(b) The person designated by the chair of the commission [~~director~~] to supervise the division responsible for highways and roads must be a registered professional engineer experienced and skilled in highway construction and maintenance.

[~~(c) In appointing a person to supervise a function previously performed by the former State Department of Highways and Public Transportation, Texas Department of Aviation, or Texas Turnpike Authority, preference shall be given to a person employed in a similar position in that former agency.~~]

At Page 9, after line 10, Subchapter E, Chapter 201, Transportation Code, Sections 201.301, 201.302, and 201.303 are amended and renumbered appropriately to read as follows:

SUBCHAPTER E. STATE ROAD MAP; UNIVERSITY LABORATORIES

[~~DIRECTOR~~]

Sec. 201.301. [~~EXECUTIVE DIRECTOR. (a) The commission shall elect an executive director for the department. The director must be a registered professional engineer in this state and experienced and skilled in transportation planning, development, construction, and maintenance.~~

[~~(b) The director serves at the will of the commission.~~

[~~(d) The director shall:~~

[~~(1) serve the commission in an advisory capacity, without vote; and~~

[~~(2) submit to the commission, quarterly, annually, and biennially, detailed reports of the progress of public road construction, detailed reports of public and mass transportation development, and detailed statements of expenditures.~~

[~~(e) The director is entitled to actual expenses for and related to travel away from Austin in performance of the director's duties under the direction of the commission.~~

[~~Sec. 201.302.~~] STATE ROAD MAP. The chair of the commission [~~director~~] shall make, regularly revise, and keep in a form convenient for examination in the office of the department a complete road map of the state that shows road construction in the counties.

Sec. 201.302 [~~201.303~~]. USE OF UNIVERSITY LABORATORIES FOR ANALYZING MATERIALS. The chair of the commission [~~director~~] may use laboratories maintained at Texas A&M University and The University of Texas to test and analyze road and bridge material. Persons in charge of the laboratories shall cooperate with and assist the chair of the commission [~~director~~] with those tests and analyses.

On Page 76 after line 14, Section 223.105, Transportation Code, is repealed.

On Page 77 after line 7, Section 504.401(d), Transportation Code, is amended and subparagraph (11) is added, and subparagraphs (12) and (13) renumbered appropriately to read as follows:

(d) In this section, "state official" means:

(1) a member of the legislature;

(2) the governor;

(3) the lieutenant governor;

(4) a justice of the supreme court;

(5) a judge of the court of criminal appeals;

(6) the attorney general;

(7) the commissioner of the General Land Office;

(8) the comptroller;

(9) a member of the Railroad Commission of Texas;

(10) the commissioner of agriculture;

(11) the commissioners of transportation;

(12) the secretary of state; or

(13) [~~(12)~~] a member of the State Board of Education.

On Page 82, after line 21, Section 52.092(c), a new Section is added and the Election Code is amended by adding subparagraph (7) and renumbering subparagraphs (8)-(12) appropriately, to read as follows:

(c) Statewide offices of the state government shall be listed in the following order:

(1) governor;

(2) lieutenant governor;

(3) attorney general;

(4) comptroller of public accounts;

(5) commissioner of the General Land Office;

(6) commissioner of agriculture;

(7) commissioners of transportation;

(8) railroad commissioner;

(9) [~~(8)~~] chief justice, supreme court;

(10) [~~(9)~~] justice, supreme court;

(11) [~~(10)~~] presiding judge, court of criminal appeals;

(12) [~~(11)~~] judge, court of criminal appeals.

An appropriately numbered Section is added to the Bill, and other subsequent Sections of the Bill renumbered appropriately, to read as follows:

SECTION ___. (a) The first chair of the commission of transportation elected under the changes in law made by this Act shall be elected at the general election held in November, 2010 to serve for a term that begins January 1, 2011.

(b) Until the first commissioner of transportation elected under this Act takes office, the members of the Texas Transportation Commission and the executive director of the Texas Department of Transportation serving on the effective date of this Act shall, unless otherwise removed as provided by law, continue in office under the prior law that governed the composition of the Texas Transportation Commission, and that prior law is continued in effect for that purpose. If, on January 1, 2011, there is a vacancy in the new office of commissioner of transportation created under this Act because the first chair-elect of the commission of transportation has died or refuses or is permanently unable to serve, the members of the Texas Transportation Commission and the executive director of the Texas Department of Transportation serving on the effective date of this Act shall, unless otherwise removed as provided by law, continue in office under the prior law that governed the composition of the Texas Transportation Commission until the governor fills the vacancy by appointment in the manner provided by law. The prior law that governed the composition of the Texas Transportation Commission and the

executive director of the Texas Department of Transportation is continued in effect for that purpose. At the time that the first chair-elect of the commission of transportation that is elected, or in extraordinary circumstances appointed, under this Act takes office, the chair shall serve as sole commissioner until the election of the remaining fourteen (14) commissioners of the Texas Transportation Commission.

(c) The newly elected commissioners of transportation succeed to all powers, duties, rights, and obligations of the Texas Transportation Commission, and the reconstituted Texas Transportation Commission as elected shall not affect the validity of any right, duty, decision, rule, or action of any kind taken by or under the authority of the commission.

3rd Reading



ADOPTED

MAY 11 2009

Robert Haney
Chief Clerk
House of Representatives

ENGROSSED RIDER NO.163

FLOOR AMENDMENT NO. 16 BY: _____

Amend H.B. No. 300 on third reading by amending Section 201.051(h), Transportation Code, as added by Floor Amendment No. 4 by Veasey, amending Floor Amendment No. 1 by McClendon to C.S.H.B. No. 300, to read as follows:

(h) A vacancy in the office of commissioner is filled by election by the legislature. The legislature fills a vacancy by the vote of each chamber of the legislature sitting separately. A person is elected as commissioner by the legislature if the person receives a majority of the votes cast in each chamber of the legislature for the person's election. To be eligible to be a candidate for commissioner under this subsection, other than for the commissioner elected at-large, a person must be a resident of the geographic district for which the vacancy exists.

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X

3rd Reading -
ENGROSSED RIDER NO.164



811981

ADOPTED

MAY 11 2009

Robert Haney
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 17

Amend H.B. No. 300 on third reading, by adding the following appropriately numbered ARTICLE to the bill, and renumbering the subsequent ARTICLES of the bill accordingly:

ARTICLE __. TEMPORARY TAGS FOR MOTOR VEHICLES

SECTION __.01 Subchapter C, Chapter 503, Transportation Code, is amended by adding Section 503.0619 to read as follows:

Section 503.0619. TEMPORARY TAG MATERIAL. (a) The department shall evaluate:

(1) the material authorized for use in a temporary motor vehicle tag;

(2) alternative materials available for use in a temporary motor vehicle tag;

(3) the visibility of various tag materials in different types of weather and light conditions; and

(4) the effectiveness of various tag materials.

(b) The department shall seek the assistance of law enforcement in evaluating the materials to be used in the temporary motor vehicle tags.

(c) If the department determines that the materials currently authorized for use in temporary motor vehicle tags are not effective, the commission shall by rule adopt new specifications for temporary motor vehicle tags.

(d) The department shall complete the evaluation required by this section not later than September 1, 2010.

(e) This section expires January 1, 2011.

515

9.131.254 KJM

3rd Reading

811984 ADOPTED

ENGROSSED RIDER NO.165

FLOOR AMENDMENT NO. 18 MAY 11 2009 BY:

Robert Haney
Chief Clerk
House of Representatives

Amend H.B. No. 300 on third reading as follows:

(1) In Section 372.152, Transportation Code, as added by Floor Amendment No. 125 by Pickett at the end of that section add the following:

A person who enters into or submits a proposal for a contract with the department or with any board or agency of this state whose governing members are appointed by the governor may not make a political contribution to the governor's campaign.

(2) Strike Section 372.155(a), Transportation Code, as added by Floor Amendment No. 125 by Pickett, and substitute the following:

(a) A local toll project entity or the office of the governor may not use any money under its control to attempt to influence the passage or defeat of a legislative measure.

(3) Strike Section 372.155(b), Transportation Code, as added by Floor Amendment No. 125 by Pickett, and substitute the following:

(b) This section does not prohibit a board member or employee of a local toll entity, the governor, or an employee of the office of the governor from using the entity's resources to provide public information or to provide information responsive to a request.

(4) In Section 372.155(c), Transportation Code, as added by Floor Amendment No. 125 by Pickett, at the end of that subsection add the following:

If the governor or an employee of the office of the governor violates this section, the department may not develop, finance, construct, or operate a toll project within the territory of a local toll project entity without the consent of the local toll project entity.

X 516

(5) Strike Section 372.157, Transportation Code, as added by Floor Amendment No. 125 by Pickett, and substitute the following:

Sec. 372.157. COMPENSATION PROHIBITION. A local toll project entity, the governor, or the office of the governor may not use any money under its control to compensate a board member or employee who violates Section 372.153 or who causes or assists in the violation of Section 372.154 or 372.155(a), or an employee who is subject to termination under Section 372.156.

(6) Strike Section 372.158, Transportation Code, as added by Floor Amendment No. 125 by Pickett, and substitute the following:

Sec. 372.158. ADVISORS, CONSULTANTS, AUDITORS, AND OTHER EXPERTS. A person may not serve as a consultant, or advisor, auditor, or other expert in connection with a contract of a local toll project entity or for the department if the person or the person's affiliates have a financial interest in the contract.

811883

ADOPTED
MAY 11 2009
As Amended
Chief Clerk, House of Representatives

ENGROSSED RIDER NO.166

3rd Reading

FLOOR AMENDMENT NO. 19

BY Helen Giddings

Amend C.S.H.B. 300 on third reading by adding a new section, appropriately numbered to read as follows, renumbering the sections of the bill accordingly:

SECTION ____. Notwithstanding any other provision of this Act, the changes made in law by this Act do not apply to the following enumerated projects. Such projects are governed by the law as it existed immediately before the effective date of the Act, and those provisions are continued in effect for that purpose. The projects subject of this section are:

(1) the State Highway 161 project from State Highway 183 to IH 20 in Dallas County;

(2) the DFW Connector project in Tarrant and Dallas Counties (State Highway 114 from State Highway 114L Business to east of International Parkway and State Highway 121 from north of FM 2499 to south of State Highway 360);

(3) the North Tarrant Express project in Tarrant and Dallas Counties (IH 820 and State Highway 121/State Highway 183 from IH 35W to State Highway 161, IH 820 east from State Highway 121/State Highway 183 to Randol Mill Road, and IH 35W from IH 30 to State Highway 170);

(4) the IH 635 managed lanes project in Dallas County (IH 635 from east of Luna Road to Greenville Avenue and IH 35E from south of the Loop 12/IH 35E split to south of Valwood Parkway);

(5) a project associated with the highway designated as the Trinity Parkway in the city of Dallas;

(6) Phase 4 extension of the Dallas North Tollway in Collin and Denton Counties from U.S. 380 to the Grayson County line to be developed by North Texas Tollway Authority; or

(7) the Southwest Parkway (State Highway 121) in Tarrant County from Dirks Road/Altamesa Boulevard to IH 30; or

8. the Trinity Parkway

09 MAY -8 PM 1:55
HOUSE OF REPRESENTATIVES

ord Reading



ENGROSSED RIDER NO.167

FLOOR AMENDMENT NO. 20 BY: [signature]

Amend House Floor Amendment No. 19 on third reading to H.B. No. 300 in item number (6), by striking "Collin and Denton Counties" and substituting "Denton County".



ADOPTED

MAY 2 5 2009

Secretary of the Senate

By: Hegar / Isett H.B. No. 300

Substitute the following for H.B. No. 300:

By: Crownover C.S.H.B. No. 300

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Department of Transportation, including the transfer of certain functions to the Texas Department of Motor Vehicles and the Texas Department of Licensing and Regulation; providing penalties.

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

ARTICLE 1. GENERAL COMMISSION AND DEPARTMENT PROVISIONS

SECTION 1.01. Sections 201.051(a), (f), (g), and (j), Transportation Code, are amended to read as follows:

(a) The Texas Transportation Commission consists of five members appointed by the governor with the advice and consent of the senate. If the governor does not appoint the commissioners before February 28 of an odd-numbered year, the lieutenant governor shall appoint the commissioners. A commissioner appointed by the lieutenant governor is not subject to confirmation by the senate.

(f) An officer, employee, or paid consultant of a Texas trade association in the field of road construction or maintenance, aviation, or outdoor advertising is not eligible for appointment as [~~or a Texas trade association of automobile dealers may not be~~] a member of the commission.

(g) The spouse of an officer, manager, or paid consultant of a Texas trade association in the field of road construction or maintenance, aviation, or outdoor advertising is not eligible for appointment as [~~or a Texas association of automobile dealers may~~

~~not be~~] a member of the commission.

(j) In this section, "Texas trade association" means a [~~nonprofit,~~] cooperative[~~,~~] and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

SECTION 1.02. Section 201.052, Transportation Code, is amended to read as follows:

Sec. 201.052. TERMS. Members of the commission serve two-year [~~staggered six-year~~] terms[~~, with the terms of either one or two members~~] expiring February 1 of each odd-numbered year.

SECTION 1.03. Section 201.054, Transportation Code, is amended to read as follows:

Sec. 201.054. COMMISSION MEETINGS. (a) The commission shall hold regular meetings at least once a month and special meetings at the call of the chair. Commissioners shall attend the meetings of the commission. The chair shall oversee the preparation of an agenda for each meeting and ensure that a copy is provided to each commissioner at least seven days before the meeting.

(b) The commission shall make a sound and video recording of each regular and called meeting of the commission and of any workshop conducted by the commission. Not later than 24 hours after a meeting or workshop of the commission is adjourned, the department shall post the sound and video recording of the meeting or workshop on the department's Internet website.

SECTION 1.04. Subchapter B, Chapter 201, Transportation Code, is amended by adding Section 201.060 to read as follows:

Sec. 201.060. ASSISTANTS TO COMMISSIONERS. An assistant to a commissioner is required to report only to that commissioner. An assistant to a commissioner may not be required to report to the director.

SECTION 1.05. Subchapter C, Chapter 201, Transportation Code, is amended by adding Sections 201.117 and 201.118 to read as follows:

Sec. 201.117. TECHNOLOGICAL SOLUTIONS. The commission shall implement a policy requiring the department to use appropriate technological solutions to improve the department's ability to perform its functions. The policy must ensure that the public is able to interact with the department on the Internet.

Sec. 201.118. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of department rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the department's jurisdiction.

(b) The department's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state

agencies.

(c) The commission shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the department.

SECTION 1.06. Subchapter C, Chapter 201, Transportation Code, is amended by adding Section 201.119 to read as follows:

Sec. 201.119. ADVISORY COMMITTEES. (a) The commission may establish, as it considers necessary, advisory committees on any of the matters under its jurisdiction.

(b) The commission shall determine the purpose, duties, and membership of each advisory committee.

SECTION 1.07. Sections 201.202(a) and (c), Transportation Code, are amended to read as follows:

(a) The commission shall organize the department into divisions to accomplish the department's functions and the duties assigned to it, including divisions for:

(1) aviation;

(2) highways and roads;

(3) public transportation; and

(4) rail [~~motor vehicle titles and registration~~].

(c) A [~~In appointing a~~] person designated by the commission as the department's chief financial officer must report directly to

the commission [~~to supervise a function previously performed by the former State Department of Highways and Public Transportation, Texas Department of Aviation, or Texas Turnpike Authority, preference shall be given to a person employed in a similar position in that former agency~~].

SECTION 1.08. Section 201.204, Transportation Code, is amended to read as follows:

Sec. 201.204. SUNSET PROVISION. The Texas Department of Transportation is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2013 [~~2009~~].

SECTION 1.09. Subchapter D, Chapter 201, Transportation Code, is amended by adding Sections 201.210, 201.211, 201.212, and 201.213 to read as follows:

Sec. 201.210. COMPLIANCE CERTIFICATION. (a) Not later than September 1 of each year, the director and the department's chief financial officer shall each certify in writing that the director or the officer, as applicable:

(1) is responsible for establishing and maintaining the department's internal controls;

(2) has evaluated the effectiveness of the department's internal controls;

(3) has presented conclusions about the effectiveness of the department's internal controls and applicable reporting requirements; and

(4) has effectively complied with all applicable legislative mandates.

(b) The director and the department's chief financial officer shall submit the certifications required by Subsection (a) to the governor, the lieutenant governor, the speaker of the house of representatives, the chair of the standing committee of each house of the legislature with primary jurisdiction over transportation matters, and the Transportation Legislative Oversight Committee created under Section 201.625.

(c) The Transportation Legislative Oversight Committee shall recommend to the 82nd Legislature appropriate penalties for failure to submit the certifications required by Subsection (a).

Sec. 201.211. LEGISLATIVE LOBBYING. (a) In addition to Section 556.006, Government Code, a member of the commission, the director, or a department employee may not use money under the department's control or state resources to engage in an activity to influence the passage or defeat of legislation, except as provided by Subsection (c).

(b) Violation of Subsection (a) is grounds for dismissal of an employee who directs or carries out the violation.

(c) This section does not prohibit a member of the commission, the director, or a department employee from using state resources to:

(1) provide public information or information responsive to a request;

(2) communicate with officers and employees of the federal government in pursuit of federal appropriations; or

(3) influence the passage or defeat of federal legislation or regulation.

Sec. 201.212. ETHICS AFFIRMATION AND HOTLINE. (a) Each department employee shall annually affirm the employee's commitment to adhere to the ethics policy adopted under Section 572.051(c), Government Code.

(b) The department shall establish and operate a dedicated telephone line that enables a person to call the number, anonymously or not anonymously, to report alleged fraud, waste, or abuse or an alleged violation of the ethics policy adopted under Section 572.051(c), Government Code.

Sec. 201.213. LEGISLATIVE APPROPRIATIONS REQUEST. Department staff shall deliver the department's legislative appropriations request to the commission in an open meeting not later than the 30th day before the commission adopts the legislative appropriations request for submission to the Legislative Budget Board.

SECTION 1.10. (a) Subchapter D, Chapter 201, Transportation Code, is amended by adding Section 201.214 to read as follows:

Sec. 201.214. ENVIRONMENTAL CERTIFICATION. (a) So as to improve environmental accountability in the department, the department shall establish a certification process for environmental specialists. A person who successfully completes the certification process may:

(1) perform analyses and reviews of environmental reports and documents; and

(2) approve environmental reports and documents.

(b) The certification process must establish minimum levels

of training, including continuing education. A person certified by the department must successfully complete continuing education on a regular basis and be recertified each year.

(b) Not later than March 31, 2010, the Texas Department of Transportation shall establish the certification process under Section 201.214, Transportation Code, as added by Subsection (a) of this section.

(c) Not later than September 30, 2010, each employee of the Texas Department of Transportation whose job includes working on the development of environmental reports and documents must have successfully completed the certification process under Section 201.214, Transportation Code, as added by Subsection (a) of this section.

SECTION 1.11. Section 201.301(a), Transportation Code, is amended to read as follows:

(a) The commission shall elect an executive director for the department. The director must be [~~a registered professional engineer in this state and~~] experienced and skilled in transportation planning, development, construction, and maintenance.

SECTION 1.12. Section 201.404(b), Transportation Code, is amended to read as follows:

(b) The director or the director's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for department employees must be based on the system established under this subsection. If an annual performance evaluation indicates that an

employee's performance is unsatisfactory, the director or the person designated by the director shall consider whether the employee should be terminated. The annual performance evaluations developed under this subsection must include the evaluation of an employee's:

(1) professionalism;

(2) diligence; and

(3) responsiveness to directives and requests from the director and the legislature.

SECTION 1.13. Section 201.703, Transportation Code, is amended to read as follows:

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

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

(c) The expenditure of state money is limited to the cost of construction and engineering, overhead, and other costs on which the application of federal money is prohibited or impractical and

to the cost of providing federally required oversight.

(d) The department may:

(1) contract for work involving a road that is not on the state highway system under this section in accordance with the law that would apply to the department if the work were on the state highway system; or

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

SECTION 1.14. Section 202.021, Transportation Code, is amended by amending Subsection (e) and adding Subsection (e-1) to read as follows:

(e) The commission may waive payment for real property transferred to a governmental entity under this section if:

(1) the estimated cost of future maintenance on the property equals or exceeds the fair value of the property; or

(2) the property is a highway right-of-way and the governmental entity assumes or has assumed jurisdiction, control, and maintenance of the right-of-way for public road purposes.

(e-1) If property described by Subsection (e)(2) ceases to be used for public road purposes, the real property rights transferred under this section terminate and automatically revert to and vest in this state.

SECTION 1.15. Section 203.031, Transportation Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) In the exercise of its authority to manage access to or from a controlled access highway under Subsection (a)(2) or (4),

the commission by rule shall:

(1) require that a decision by a department district office denying a request for access to a specific location on a controlled access highway be in writing and include the reasons for the denial;

(2) provide procedures for appealing a denial under Subdivision (1), including procedures that:

(A) allow the applicant to appeal the denial to the department's design division before the 31st day after the date written notice of the denial is given to the applicant;

(B) provide that if an appeal under Paragraph (A) is not decided before the 91st day after the date the appeal was filed, the access applied for must be granted; and

(C) allow the applicant to appeal the decision of the design division to the director and, if the decision is affirmed, to a board of variance appointed by the director and composed of at least three persons who may not be below the level of department division director, office director, or district engineer and who were not involved in the original decision to deny access;

(3) provide that properly platted access points to or from a controlled access highway that are located on undeveloped property are subject to the access management standards in effect at the time the points were platted regardless of when the initial request for access was submitted to the department, but only if:

(A) development of the property begins and the request for access at the platted locations is submitted to the

department before the fifth anniversary of the date the plat was recorded; and

(B) the design of the highway facility in the vicinity of the platted access points did not materially change after the date the plat was recorded so as to significantly impact traffic patterns to the extent that the platted access points present a threat to public safety;

(4) require that:

(A) owners of land adjacent to a proposed highway construction project be provided written notice of the project at least 60 days before the date construction begins if the project will permanently alter permitted access to or from a controlled access highway at the owners' existing locations; and

(B) the access described by Paragraph (A) be reinstated to the most practicable extent possible after due consideration of the impact on highway safety, mobility, and efficient operation of any changed traffic patterns resulting from the construction;

(5) adopt criteria for determining when a variance to access management standards may be granted, including criteria that, in addition to highway safety, mobility, and efficient operation concerns, takes into consideration any of the following consequences resulting from denial of the owner's request for access to a specific location on a controlled access highway that may impact a property owner:

(A) denial of reasonable access to the property; and

(B) undue hardship on a business located on the property; and

(6) clarify that the remodeling or demolition and rebuilding of a business does not cause new access management standards to apply unless the department makes an affirmative finding in writing that the remodeled or rebuilt business will significantly impact traffic patterns to the extent that the current access location presents a threat to public safety.

SECTION 1.16. Subchapter C, Chapter 202, Transportation Code, is amended by adding Section 202.061 to read as follows:

Sec. 202.061. ENVIRONMENTAL COVENANT. (a) The commission may enter into an environmental covenant for the purpose of subjecting real property in which the department has an ownership interest to a plan or the performance of work for environmental remediation if the plan or work performed is first approved by the Texas Commission on Environmental Quality or a federal agency with the authority to approve the plan or work under the applicable laws and regulations.

(b) The environmental covenant must:

(1) contain a legally sufficient description of the property subject to the covenant;

(2) describe the nature of the contamination on or under the property, including the contaminants, the source, if known, and the location and extent of the contamination; and

(3) describe the activity and use limitations on the property.

(c) The plan or performance of work for environmental

remediation must:

(1) meet applicable state and federal standards for environmental remediation; and

(2) bring the property into compliance with zoning or land use controls imposed on the property by each applicable local government.

(d) For each property for which the commission may enter into an environmental covenant, the commission by order may authorize the executive director to execute an environmental covenant on behalf of the commission. Not less than 30 days before the date the commission considers a proposed order under this subsection, the commission must mail to each owner of a property interest in the applicable property, each adjacent landowner, and each applicable local government a notice that includes a clear and concise description of the proposal to enter into the environmental covenant and a statement of the manner in which written comments may be submitted to the commission.

SECTION 1.17. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.625 to read as follows:

Sec. 201.625. TRANSPORTATION LEGISLATIVE OVERSIGHT COMMITTEE. (a) In this section, "committee" means the Transportation Legislative Oversight Committee.

(b) The committee is composed of the following members:

(1) the chair and all members of the Senate Committee on Transportation and Homeland Security;

(2) the chair and all members of the House Committee on Transportation;

(3) the chair of the Senate Committee on Finance; and

(4) the chair of the House Committee on Appropriations.

(c) The chair of the Senate Committee on Transportation and Homeland Security and the chair of the House Committee on Transportation serve as the presiding officer of the committee on an alternating basis, with the chair of the Senate Committee on Transportation and Homeland Security serving as the first chair of the committee. The presiding officer of the committee serves a two-year term that expires February 1 of each odd-numbered year.

(d) The committee has all other powers and duties provided to a special committee by:

(1) Subchapter B, Chapter 301, Government Code;

(2) the rules of the senate and the house of representatives; and

(3) policies of the senate and house committees on administration.

(e) The committee shall meet at least quarterly and at the call of the presiding officer.

(f) The committee shall monitor the following:

(1) implementation of the changes in law made as a result of the sunset review process;

(2) the progress made in transference of powers, duties, and property from the Texas Department of Transportation to the Texas Department of Motor Vehicles;

(3) any proposed changes in the organization or structure of the department;

(4) significant transportation policy initiatives at both the state and federal levels;

(5) major projects of the department;

(6) the financial issues facing the department, including the amounts and usage of dedicated and non-dedicated state highway funds, the impacts of various bond programs, the short-term and long-term cash forecast of the department, possible revenue sources for the rail relocation and improvement fund, and additional revenue sources for the Texas Mobility Fund; and

(7) reports on any subject requested by the committee or determined by the department to be beneficial to the committee.

(g) The committee shall require the department to provide reports to the committee as necessary to effectively perform the committee's duties under Subsection (f).

(h) When the department files a quarterly financial statement required by Section 201.107(a) with the governor, the department shall provide a copy of that statement to the committee.

(i) Notwithstanding any other provision of this chapter, the committee may not recommend specific projects or recommend funding for specific projects at the department.

(j) The department shall enter into an interagency agreement with the legislature, a chamber of the legislature, or a legislative agency to provide funding to support the operation of the committee from available amounts appropriated to the department. The amount provided by the department for a state fiscal biennium may not exceed $1 million.

(k) This section expires August 31, 2013.

SECTION 1.18. Subchapter B, Chapter 223, Transportation Code, is amended by adding Section 223.0411 to read as follows:

Sec. 223.0411. REPORT. (a) Not later than December 31, 2009, the comptroller shall submit a report to the governor, the Transportation Legislative Oversight Committee, and the Legislative Budget Board as provided by this section. In developing the report, the comptroller shall collaborate with:

(1) the department;

(2) the Texas Board of Professional Engineers;

(3) the Association of General Contractors; and

(4) the Consultant Engineer Council.

(b) The report must include:

(1) the number of licensed professional engineers and graduate engineers employed by the department in each of the previous five state fiscal years aggregated by work function and by strategy;

(2) the dollar amount of highway and bridge projects awarded by the department in each of the previous five state fiscal years;

(3) the cost, including all direct and indirect costs, aggregated by type of project per $100 million, of highway and bridge projects awarded by the department in each of the previous five state fiscal years, including the percentage of those projects for which activities were conducted by:

(A) department personnel;

(B) private sector personnel; and

(C) both department personnel and private sector

personnel;

(4) an analysis of the dollar volume impact to the department's highway and bridge construction and maintenance program per $100 million of projects awarded for each one percent increase in production by private sector personnel offset by a reduction in the activities of department personnel, considering the cost to perform activities described by Subdivision (3);

(5) a recommended plan for staffing and usage of department and private sector personnel in the planning of department highway and bridge projects for the next 10-year period based on projected funding for the department;

(6) an attrition plan to achieve the department staffing levels recommended in the plan under Subdivision (5) before January 1, 2013, if those recommended levels are lower than the corresponding staffing levels on September 1, 2009; and

(7) a detailed description as to how the results of the report will be incorporated in the department's ongoing restructuring efforts.

(c) The cost analysis required by Subsection (b)(3) shall be conducted by an independent contract cost accounting firm that is knowledgeable of governmental and private sector accounting practices.

(d) The department may not hire a new employee to fill a vacancy in a position paid out of funds appropriated to the department for the planning, design, and management of transportation projects in the General Appropriations Act (Strategy A.1.1., or its successor) until:

(1) the comptroller submits the report required by this section; and

(2) the Legislative Budget Board approves the recommendations contained in the report.

(e) This section expires September 1, 2011.

SECTION 1.19. Subchapter F, Chapter 224, Transportation Code, is amended by adding Section 224.1544 to read as follows:

Sec. 224.1544. VEHICLE SIZE AND WEIGHT LIMITS. (a) The commission may authorize the operation of a vehicle or combination that exceeds a height, length, or gross weight limitation in Subchapter C, Chapter 621, on a lane of a highway that is designated as an exclusive lane under Section 224.1541 if supported by an engineering and traffic study that includes an analysis of the structural capacity of bridges and pavements, current and projected traffic patterns and volume, and potential effects on public safety.

(b) This section does not authorize the operation of a vehicle with an axle weight that is greater than that authorized by Chapter 621, 622, or 623.

SECTION 1.20. Section 228.001, Transportation Code, is amended by adding Subdivisions (2-a) and (7) to read as follows:

(2-a) "Operate" and "operation" include the processing and collecting of tolls and the providing of related customer services.

(7) "Registered owner" means:

(A) an owner as defined by Section 502.001; or

(B) the owner of a vehicle as shown on the vehicle

registration records of the department or the analogous department or agency of another state or country.

SECTION 1.21. (a) Section 228.004, Transportation Code, is amended to read as follows:

Sec. 228.004. [~~PROMOTION OF~~] TOLL PROJECT INFORMATION. (a) The department may, notwithstanding Chapter 2113, Government Code, engage in marketing, advertising, and other activities to provide information relating to pending or operating [~~promote the development and use of~~] toll projects, including information concerning the methods of paying and collecting tolls, and may enter into contracts or agreements necessary to procure marketing, advertising, or informational [~~other promotional~~] services from outside service providers.

(b) This section does not authorize the department to engage in marketing, advertising, or other activities for the purpose of influencing public opinion about the use of toll roads or the use of tolls as a financial mechanism.

(b) The change in law made by this section applies only to a contract or agreement entered into or renewed under Section 228.004, Transportation Code, on or after the effective date of this Act. A contract or agreement entered into or renewed under that section before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 1.22. Subsection (a), Section 228.054, Transportation Code, is amended to read as follows:

(a) Except as provided by Subsection (e) or Section

228.0545, 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 shall pay the proper toll. The exemption from payment of a toll for an authorized emergency vehicle applies regardless of whether the vehicle is:

(1) responding to an emergency;

(2) displaying a flashing light; or

(3) marked as an emergency vehicle.

SECTION 1.23. Subchapter B, Chapter 228, Transportation Code, is amended by adding Section 228.0545 to read as follows:

Sec. 228.0545. ALTERNATIVE TOLLING METHODS. (a) As an alternative to requiring payment of a toll at the time a vehicle is driven or towed through a toll collection facility, the department may use video billing or other tolling methods to permit the registered owner of the vehicle to pay the toll on a later date.

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

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

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

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

(2) an alternate address provided by the owner or derived through other reliable means.

(e) On or before October 1 of each year, the department shall conduct a cost analysis to determine a policy on whether to mail a notice under Subsection (c) after each time a vehicle is driven or towed through a toll collection facility or only after a certain number of times a vehicle is driven or towed through a facility. The policy must ensure that the cost to the department of collecting tolls as provided by this section does not exceed the amount of the tolls and fees collected.

SECTION 1.24. Section 228.055, Transportation Code, is amended by amending Subsections (a), (b), (d), (e), (h), and (i), and adding Subsection (d-1) to read as follows:

(a) In the event of nonpayment of the [~~proper~~] toll as required by Section 228.054 or 228.0545, 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.

(b) The department may impose and collect the administrative fee, so as to recover the cost of collecting the unpaid toll, not to exceed $100. The department 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 or an alternate address provided by the owner or derived through other reliable means. The notice of

nonpayment shall be sent 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 Section 228.054 or 228.0545.

(d) It is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle is a lessor of the vehicle and not later than the 30th day after the date the notice of nonpayment is mailed provides to the department:

(1) a copy of the rental, lease, or other contract document covering the vehicle on the date of the nonpayment under Section 228.054 or the date the vehicle was driven or towed through a toll collection facility that results in a notice issued under Section 228.0545, with the name and address of the lessee clearly legible; or

(2) electronic data, in a format agreed on by the department and the lessor, other than a photocopy or scan of a rental or lease contract, that contains the information required under Sections 521.460(c)(1), (2), and (3) covering the vehicle on the date of the nonpayment under Section 228.054 or the date the vehicle was driven or towed through a toll collection facility that results in a notice issued under Section 228.0545.

(d-1) If the lessor provides the required information within the period prescribed under Subsection (d), the department may send a notice of nonpayment to the lessee at the address provided under Subsection (d) [~~shown on the contract document~~] by

first class mail before the 30th day after the date of receipt of the required information from the lessor. The lessee of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. The lessee shall pay a separate toll and administrative fee for each event of nonpayment. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

(e) It is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle transferred ownership of the vehicle to another person before the event of nonpayment under Section 228.054 occurred or before the date the vehicle was driven or towed through a toll collection facility that results in a notice issued under Section 228.0545, submitted written notice of the transfer to the department in accordance with Section 520.023, and, before the 30th day after the date the notice of nonpayment is mailed, provides to the department the name and address of the person to whom the vehicle was transferred. If the former owner of the vehicle provides the required information within the period prescribed, the department may send a notice of nonpayment to the person to whom ownership of the vehicle was transferred at the address provided by the former owner by first class mail before the 30th day after the date of receipt of the required information from the former owner. The department may send all subsequent notices of nonpayment associated with the vehicle to the person to whom ownership of the vehicle was transferred at the address provided by

the former owner or an alternate address provided by the subsequent owner or derived through other reliable means. The subsequent owner of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. The subsequent owner shall pay a separate toll and administrative fee for each event of nonpayment under Section 228.054 or 228.0545. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

(h) [~~In this section, "registered owner" means the owner of a vehicle as shown on the vehicle registration records of the department or the analogous department or agency of another state or country.~~

[~~(i)~~] The department may contract, in accordance with Section 2107.003, Government Code, with a person to collect the unpaid toll and administrative fee before referring the matter to a court with jurisdiction over the offense.

SECTION 1.25. Subsections (b) and (c), Section 228.056, Transportation Code, are amended to read as follows:

(b) In the prosecution of an offense under Section 228.055(c), (d-1) [~~(d)~~], or (e):

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

(2) a computer record of the department of the registered owner of the vehicle is prima facie evidence of its contents and that the defendant was the registered owner of the

vehicle when the underlying event of nonpayment under Section 228.054 occurred or on the date the vehicle was driven or towed through a toll collection facility that results in a notice issued under Section 228.0545; and

(3) a copy of the rental, lease, or other contract document, or the electronic data provided to the department under Section 228.055(d), covering the vehicle on the date of the underlying event of nonpayment under Section 228.054 or on the date the vehicle was driven or towed through a toll collection facility that results in a notice issued under Section 228.0545 is prima facie evidence of its contents and that the defendant was the lessee of the vehicle when the underlying event of nonpayment under Section 228.054 occurred or when the vehicle was driven or towed through a toll collection facility that results in a notice issued under Section 228.0545.

(c) It is a defense to prosecution under Section 228.055(c), (d-1) [~~(d)~~], or (e) that the motor vehicle in question was stolen before the failure to pay the proper toll occurred and had not been recovered before the failure to pay occurred, but only if the theft was reported to the appropriate law enforcement authority before the earlier of:

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

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

SECTION 1.26. Section 228.057, Transportation Code, is amended by adding Subsections (g) and (h) to read as follows:

(g) The department may, following closure of an electronic toll collection customer account and at the request of the account

holder, refund the balance of funds in the account after making a deduction for any outstanding tolls and fees.

(h) The department may enter into an agreement with a governmental or private entity regarding the use of a transponder issued by the department and the corresponding electronic toll collection customer account to pay for parking services offered by the entity.

SECTION 1.27. Subsection (b), Section 228.058, Transportation Code, is amended to read as follows:

(b) Automated enforcement technology approved by the department under Subsection (a) may be used only for the purpose of producing, depicting, photographing, or recording an image that depicts that portion of a vehicle necessary to establish the classification of vehicle and the proper toll to be charged, the license plate number, and the state or country of registration, including an image:

(1) of a license plate attached to the front or rear of a vehicle; and

(2) showing the vehicle dimensions, the presence of a trailer, and the number of axles.

SECTION 1.28. (a) Section 228.201, Transportation Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

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

project, unless:

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

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

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

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

(5) a facility that has access, function, and control devices similar to the converted highway or segment before conversion is constructed adjacent to the highway or segment so that the number of nontolled lanes on the converted highway or segment and the adjacent facility together is greater than or equal to the number in existence on the converted highway or segment before the conversion; or

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

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

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

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

~~228.203; and~~

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

(a-1) Subsection (a) does not apply to a port of entry, as defined by Section 621.001.

(b) Sections 228.202, 228.203, 228.207, and 228.208, Transportation Code, are repealed.

(c) The change in law made by this Act to Section 228.201(a)(5), Transportation Code, does not apply to:

(1) the State Highway 130, Segments 5 and 6, project in Travis, Caldwell, and Guadalupe Counties;

(2) the DFW Connector project in Tarrant and Dallas Counties (State Highway 114 from State Highway 114L Business to east of International Parkway and State Highway 121 from north of FM 2499 to south of State Highway 360);

(3) the North Tarrant Express project in Tarrant and Dallas Counties (IH 820 and State Highway 121/State Highway 183 from IH 35W to State Highway 161, IH 820 east from State Highway 121/State Highway 183 to Randol Mill Road, and IH 35W from IH 30 to State Highway 170);

(4) the IH 635 managed lanes project in Dallas County (IH 635 from east of Luna Road to Greenville Avenue and IH 35E from south of the Loop 12/IH 35E split to south of Valwood Parkway); or

(5) the U.S. Highway 290 project from east of U.S. Highway 183 to east of Farm-to-Market Road 734 in Travis County.

(d) A project described by Subsection (c) of this section is governed by Subchapter E, Chapter 228, Transportation Code, as that

subchapter existed immediately before the effective date of this Act, and that subchapter is continued in effect for that purpose.

SECTION 1.29. Section 284.0701, Transportation Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) It is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle is a lessor of the vehicle and not later than the 30th day after the date the notice of nonpayment is mailed provides to the authority:

(1) a copy of the rental, lease, or other contract document covering the vehicle on the date of the nonpayment under Section 284.070, with the name and address of the lessee clearly legible; or

(2) electronic data, other than a photocopy or scan of a rental or lease contract, that contains the information required under Sections 521.460(c)(1), (2), and (3) covering the vehicle on the date of the nonpayment under Section 284.070.

(d-1) If the lessor provides the required information within the period prescribed under Subsection (d), the authority may send a notice of nonpayment to the lessee at the address provided under Subsection (d) [~~shown on the contract document~~] by first class mail before the 30th day after the date of receipt of the required information from the lessor. The lessee of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative cost within the time specified by the notice of nonpayment commits an offense. The lessee shall pay a

separate toll and administrative cost for each event of nonpayment. Each failure to pay a toll or administrative cost under this subsection is a separate offense.

SECTION 1.30. Sections 284.0702(b) and (c), Transportation Code, are amended to read as follows:

(b) In the prosecution of an offense under Section 284.0701(c), (d-1) [~~(d)~~], or (e):

(1)[~~,~~] a computer record of the department of the registered owner of the vehicle is prima facie evidence of its contents and that the defendant was the registered owner of the vehicle when the underlying event of nonpayment under Section 284.070 occurred; and

(2) a copy of the rental, lease, or other contract document, or the electronic data provided to the authority under Section 284.0701(d), covering the vehicle on the date of the underlying event of nonpayment under Section 284.070 is prima facie evidence of its contents and that the defendant was the lessee of the vehicle when the underlying event of nonpayment under Section 284.070 occurred.

(c) It is a defense to prosecution under Section 284.0701(c), (d-1) [~~(d)~~], or (e) that the vehicle in question was stolen before the failure to pay the proper toll occurred and had not been recovered before the failure to pay occurred, but only if the theft was reported to the appropriate law enforcement authority before the earlier of:

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

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

SECTION 1.31. Section 366.178, Transportation Code, is amended by amending Subsections (f) and (i) and adding Subsection (i-1) to read as follows:

(f) In the prosecution of a violation for nonpayment, proof that the vehicle passed through a toll collection facility without payment of the proper toll together with proof that the defendant was the registered owner or the driver of the vehicle when the failure to pay occurred, establishes the nonpayment of the registered owner. The proof may be by testimony of a peace officer or authority employee, video surveillance, or any other reasonable evidence, including a copy of the rental, lease, or other contract document or the electronic data provided to the authority under Subsection (i) that shows the defendant was the lessee of the vehicle when the underlying event of nonpayment occurred.

(i) A registered owner who is the lessor of a vehicle for which a notice of nonpayment has been issued is not liable if, not later than the 30th day after the date the notice of nonpayment is mailed, the registered owner provides to the authority:

(1) a copy of the rental, lease, or other contract document [~~lease agreement~~] covering the vehicle on the date of the nonpayment, with the[~~. The~~] name and address of the lessee [~~must be~~] clearly legible; or

(2) electronic data, other than a photocopy or scan of a rental or lease contract, that contains the information required under Sections 521.460(c)(1), (2), and (3) covering the vehicle on the date of the nonpayment under this section.

(i-1) If the lessor timely provides the required

information under Subsection (i), the lessee of the vehicle on the date of the violation is considered to be the owner of the vehicle for purposes of this section. The lessee is subject to prosecution for failure to pay the proper toll if the authority sends a notice of nonpayment to the lessee by first-class mail not later than the 30th day after the date of the receipt of the information from the lessor.

SECTION 1.32. Section 370.177, Transportation Code, is amended by amending Subsections (e), (g), and (i) and adding Subsection (e-1) to read as follows:

(e) It is an exception to the application of Subsection (b) or (d) that the registered owner of the vehicle is a lessor of the vehicle and not later than the 30th day after the date the notice of nonpayment is mailed provides to the authority:

(1) a copy of the rental, lease, or other contract document covering the vehicle on the date of the nonpayment under Subsection (a), with the name and address of the lessee clearly legible; or

(2) electronic data, other than a photocopy or scan of a rental or lease contract, that contains the information required under Sections 521.460(c)(1), (2), and (3) covering the vehicle on the date of the nonpayment under Subsection (a).

(e-1) If the lessor provides the required information within the period prescribed under Subsection (e), the authority may send a notice of nonpayment to the lessee at the address provided under Subsection (e) [~~shown on the contract document~~] by first class mail before the 30th day after the date of receipt of

the required information from the lessor. The lessee of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. The lessee shall pay a separate toll and administrative fee for each event of nonpayment. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

(g) An offense under Subsection (d), (e-1) [~~(e)~~], or (f) is a misdemeanor punishable by a fine not to exceed $250.

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

(1) evidence obtained by automated enforcement technology that the authority determines is necessary, including automated enforcement technology described by Sections 228.058(a) and (b); or

(2) a copy of the rental, lease, or other contract document or the electronic data provided to the authority under Subsection (e) that shows the defendant was the lessee of the vehicle when the underlying event of nonpayment occurred.

SECTION 1.33. Subchapter A, Chapter 621, Transportation

Code, is amended by adding Section 621.008 to read as follows:

Sec. 621.008. STUDY REGARDING OVERSIZE AND OVERWEIGHT VEHICLES. (a) The department shall conduct a study to determine improvements to the regulation of oversize and overweight vehicles.

(b) In conducting the study, the department shall consider:

(1) prohibiting overweight vehicles or vehicle combinations from traveling on state highways if the vehicle or combination will cause damage to a road or bridge, based on the weight or load specifications to which the road or bridge was built;

(2) requiring each applicant for a permit under Chapter 623 to pay a graduated highway maintenance fee based on weight and the amount of damage done by the permitted vehicle or vehicle combination to roads and bridges;

(3) requiring each fee collected for an overweight or oversize vehicle permit to be deposited in the state highway fund; and

(4) eliminating all exemptions for overweight vehicles.

(c) Not later than September 1, 2010, the department shall report the results of the study conducted under this section to the governor, the lieutenant governor, the speaker of the house of representatives, and the appropriate oversight committee of each house of the legislature.

(d) This section expires September 1, 2011.

SECTION 1.34. Section 201.0545, Transportation Code, is repealed.

SECTION 1.35. Section 545.353, Transportation Code, is

amended by adding Subsection (h-2) to read as follows:

(h-2) Notwithstanding Section 545.352(b), the commission may establish a speed limit of 85 miles per hour on a part of the state highway system if:

(1) as a result of an engineering and traffic investigation the commission determines that 85 miles per hour is a reasonable and safe speed for that part of the highway system; and

(2) that part of the highway system is designed for travel at a speed of 85 miles per hour or more.

SECTION 1.36. (a) The terms of the members of the Texas Transportation Commission serving on January 31, 2010, expire February 1, 2011.

(b) Not later than January 31, 2011, the governor shall appoint the members of the Texas Transportation Commission in accordance with Section 201.051(a), Transportation Code, as amended by this article, to serve terms beginning February 1, 2011.

ARTICLE 2. TRANSPORTATION PLANNING AND PROJECT DEVELOPMENT PROCESS

SECTION 2.01. Section 201.001(a), Transportation Code, is amended by adding Subdivision (4) to read as follows:

(4) "Metropolitan planning organization" has the meaning assigned by Section 472.031, Transportation Code.

SECTION 2.02. Section 201.601, Transportation Code, is amended to read as follows:

Sec. 201.601. STATEWIDE TRANSPORTATION PLAN. (a) The department shall develop a statewide transportation plan covering a period of not less than 25 years that contains all modes of transportation, including:

(1) highways and turnpikes;

(2) aviation;

(3) mass transportation;

(4) railroads and high-speed railroads; and

(5) water traffic.

(a-1) The plan must:

(1) contain specific, long-term transportation goals for the state and measurable targets for each goal;

(2) identify priority corridors, projects, or areas of the state that are of particular concern to the department in meeting the goals established under Subdivision (1); and

(3) contain a participation plan for obtaining input on the goals and priorities identified under this subsection from:

(A) other state agencies;

(B) political subdivisions;

(C) planning organizations as defined in Section 201.981(2); and

(D) members of the general public.

(b) [~~In developing the plan, the department shall seek opinions and assistance from other state agencies and political subdivisions that have responsibility for the modes of transportation listed by Subsection (a).~~] As appropriate, the department and one or more of the entities listed in Subsection (a-1)(3) [~~such an agency or political subdivision~~] shall enter into a memorandum of understanding relating to the planning of transportation services.

(c) The plan must include a component that is not

financially constrained and identifies transportation improvements designed to relieve congestion. In developing this component of the plan, the department shall seek opinions and assistance from officials who have local responsibility for modes of transportation listed in Subsection (a).

(d) If there is a conflict between obligations and requirements imposed in federal law governing the transportation planning, project development, and programming process for the department and planning organizations as defined in Section 201.981(2), and those imposed in this title, federal law controls and the commission may take any action that is necessary in its reasonable judgment to comply with any federal law to enable this state to receive federal aid funds.

(e) The department shall update the plan every five years or more frequently as necessary. [~~The plan shall include a component, published annually, that describes the evaluation of transportation improvements based on performance measures, such as indices measuring delay reductions or travel time improvements. The department shall consider the performance measures in selecting transportation improvements.~~]

SECTION 2.03. Subchapter H, Chapter 201, Transportation Code, is amended by adding Sections 201.6012, 201.6015, 201.621, 201.622, and 201.623 to read as follows:

Sec. 201.6012. INTEGRATION OF PLANS AND POLICY EFFORTS. In developing each of its transportation plans and policy efforts, the department must clearly reference the 25-year plan developed under Section 201.601 and specify how the plan or policy effort supports

or otherwise relates to the specific goals contained in that plan.

Sec. 201.6015. DELEGATION OF DUTIES OR POWERS TO METROPOLITAN PLANNING ORGANIZATION. A metropolitan planning organization may agree to accept additional responsibilities delegated by the commission concerning transportation planning and project selection.

Sec. 201.621. METROPOLITAN TRANSPORTATION PLAN. (a) A metropolitan planning organization shall prepare and periodically update a long-range transportation plan for its service area as required by federal law.

(b) The first 10 years of the long-range plan must be identical to the plan developed under Section 201.983.

(c) Before approving a long-range transportation plan, a metropolitan planning organization shall provide to residents in its boundaries, affected public agencies, and other interested parties a reasonable opportunity to comment on the long-range transportation plan.

(d) A metropolitan planning organization shall make each of its long-range transportation plans readily available for public review and shall deliver each plan to the commission at the times and in the manner and format established by the commission. The format of the plan must be in plain English and easily reviewable and understandable. The metropolitan planning organization shall update the plan every year or more frequently as necessary.

Sec. 201.622. COOPERATION WITH METROPOLITAN PLANNING ORGANIZATIONS TO DEVELOP LONG-TERM PLANNING ASSUMPTIONS. The department and metropolitan planning organizations shall cooperate

to develop mutually acceptable assumptions for the purposes of long-range federal and state funding forecasts that are consistent with the criteria established by the commission under Section 201.987 and use those criteria to guide long-range planning.

Sec. 201.623. RECOMMENDATIONS FROM RURAL PLANNING ORGANIZATION. A rural planning organization may make recommendations to the commission concerning the selection of transportation projects, systems, or programs to be undertaken in the boundaries of the rural planning organization.

SECTION 2.04. Section 201.617(a), Transportation Code, as transferred by Chapter 281 (H.B. 2702), Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(a) If authorized by an applicable regulatory authority, to mitigate an adverse environmental impact that is a direct result of the construction, improvement, or maintenance of a state highway or the construction, improvement, or maintenance of a facility used in connection with the construction, maintenance, or operation of a state highway improvement project, the department may:

(1) pay a fee to an appropriate public agency or private entity in lieu of acquiring or agreeing to manage property;

(2) transfer any interest in real property to an appropriate public agency or private entity, as authorized by the regulatory authority that requires the mitigation, with or without monetary consideration if the property is used or is proposed to be used for mitigation purposes; or

(3) contract with any public or private entity for the management of property owned by the department and used for

mitigation purposes.

SECTION 2.05. Subchapter I, Chapter 201, Transportation Code, is amended by adding Sections 201.711 and 201.712 to read as follows:

Sec. 201.711. ELIGIBILITY FOR STATE ALLOCATION OF FUNDING; BOARD MEMBERSHIP. (a) To be eligible to receive funds from this state for transportation projects under Section 201.988, not more than 50 percent of the voting members of the policy board of a metropolitan planning organization must be elected officials who are elected in the boundaries of the metropolitan planning organization.

(b) A metropolitan planning organization that is not eligible under Subsection (a) may redesignate the board in compliance with the redesignation procedures in 23 U.S.C. Section 134 to become eligible to receive an allocation of funds under Section 201.988.

(c) In this section, "elected official" means the presiding officer or a member of the governing body of a municipality, a county judge, a county commissioner, a state representative, or a state senator.

Sec. 201.712. FUNDS FOR RURAL PLANNING ORGANIZATION. The department may use money in the state highway fund to fund the operations of a rural planning organization.

SECTION 2.06. (a) Subchapter J, Chapter 201, Transportation Code, is amended by adding Sections 201.8005, 201.807, 201.808, 201.809, 201.810, and 201.811 to read as follows:

Sec. 201.8005. DEFINITION. In this subchapter,

"transportation project" has the meaning assigned by Section 201.981.

Sec. 201.807. PROJECT INFORMATION REPORTING SYSTEM. (a) The department shall establish a project information reporting system that makes available in a central location on the department's Internet website information regarding all of the department's transportation projects contained in the project development program required by Section 201.982 or under construction. The information must be easily accessible, understandable, and searchable. The project information reporting system must contain:

(1) information about each of the department's transportation projects included in the project development program, including:

(A) the status of the project;

(B) each source of funding for the project;

(C) benchmarks for evaluating the progress of the project;

(D) timelines for completing the project;

(E) a list of the department employees responsible for the project, including information as to how each person on that list may be contacted; and

(F) the results of the annual review required by Subsection (d);

(2) a representational color-coded map showing the location of the transportation projects and containing the information described by Subdivision (1);

(3) each construction work zone for a transportation project under construction that has a total construction timeline that exceeds six months or the cost of which exceeds $5 million, including information about:

(A) the number of lanes that will remain open during the project's construction phase;

(B) the location and duration of each lane closure; and

(C) the expected traffic delay resulting from each lane closure;

(4) road maintenance transportation projects that are planned or under construction, including the condition of each road before the road maintenance transportation project; and

(5) each fund source for the department's funds and all expenditures made by the department, for each of the department's transportation projects, reported by:

(A) department district;

(B) program funding category as required by Section 201.982(b)(2); and

(C) type of revenue, including revenue from a comprehensive development agreement or a toll project.

(b) In developing the project information reporting system, the department shall collaborate with:

(1) the Transportation Legislative Oversight Committee;

(2) local transportation entities as defined by Section 201.981; and

(3) members of the general public.

(c) The department shall make the statistical information provided under this section available on the department's Internet website in more than one downloadable electronic format.

(d) As a component of the project information reporting system required by this section, the department shall conduct an annual review of the benchmarks and timelines of each transportation project included in the department's project development program, to determine the completion rates of the projects and whether the projects were completed on time.

(e) The department shall update the information contained in the project information reporting system at least quarterly and the representational map at least annually.

Sec. 201.808. TRANSPORTATION PROJECT AND PERFORMANCE REPORTS. (a) The department shall develop a process to identify and distinguish between the transportation projects that are required to maintain the state infrastructure and the transportation projects that would improve the state infrastructure in a manner consistent with the statewide transportation plan required by Section 201.601.

(b) The department shall establish a transportation project and performance reporting system that makes available in a central location on the department's Internet website easily accessible and searchable information regarding the priority classifications established under Section 201.986 and the assignment of the identified transportation projects in the classifications.

(c) The department shall include in the transportation

project and performance reporting system:

(1) a list of the most significant transportation problems in each department district as described by the statewide transportation plan developed under Section 201.601, including the component required by Section 201.601(c);

(2) reports prepared by the department or an institution of higher education that evaluate the effectiveness of the department's expenditures on transportation projects to achieve the transportation goals;

(3) information about the condition of the pavement for each segment of the state highway system, including:

(A) the international roughness index issued by the United States Department of Transportation Federal Highway Administration; and

(B) the percentage of pavement that the department determines to be in good or better condition;

(4) the condition of bridges, including information about:

(A) the number of on-system and off-system bridges that are structurally deficient or functionally obsolete; and

(B) the percentage of bridges that the department determines to be in good or better condition;

(5) information about traffic congestion and traffic delays, including:

(A) the locations of the worst metropolitan traffic delays;

(B) the variable travel time for major freeways and highways in the metropolitan areas of this state; and

(C) the effect of traffic congestion on motor vehicle travel and motor carriers; and

(6) information about the number of traffic accidents, injuries, and fatalities, including the geographic locations in each department district for the highest number of traffic accidents, injuries, or fatalities.

(d) The department shall provide the information made available under Subsection (c) in a format that allows a person to conduct electronic searches for information about a specific county, a highway under the jurisdiction of the department, or a type of road.

(e) Each department district shall enter information into the transportation project and performance reporting system, including information about:

(1) each district transportation project; and

(2) the priority classification to which the project has been assigned according to Section 201.986.

(f) The transportation project and performance reporting system must allow a person to compare information produced by that system to information produced by the project information reporting system under Section 201.807.

(g) The department shall make available in a central location on the department's Internet website information regarding each fund source for the department's funds and all expenditures made by the department, reported by:

(1) department district;

(2) program funding category; and

(3) type of revenue, including revenue from a comprehensive development agreement or a toll project.

Sec. 201.809. STATEWIDE TRANSPORTATION REPORT. (a) The department annually shall evaluate and publish a report about the status of each transportation goal for this state. The report must include:

(1) information about the progress of each long-term transportation goal that is identified by the statewide transportation plan;

(2) the status of each project identified as a major project under Section 201.985;

(3) a summary of the number of statewide project implementation benchmarks that have been completed; and

(4) information about the accuracy of previous department financial forecasts.

(b) The department shall disaggregate the project information in the report by department district.

(c) The department shall make available a copy of the reports for department districts in a legislative district to each member of the legislature, and at the request of a member, a senior management employee shall meet with the member to explain the report.

(d) The department shall provide a copy of each district report to the political subdivisions located in the department district that is the subject of the report, including:

(1) a municipality;

(2) a county; and

(3) a local transportation entity as defined by Section 201.981.

(e) The department shall provide a copy of the complete report to the lieutenant governor, the speaker of the house of representatives, and the chair of the standing committee of each house of the legislature with primary jurisdiction over transportation issues.

Sec. 201.810. SEPARATE SUBACCOUNT REPORTING. (a) The department shall develop an account information reporting system that makes available on the department's Internet website for viewing and downloading by interested persons the tracking of each separate subaccount in the state highway fund required by law, including Chapter 228. The account information must include:

(1) the source and amount of the deposited funds and the date of deposit;

(2) identification by location and highway designation of the projects or systems to which the funds are allocated; and

(3) the amount, general type or purpose, and date of expenditures from the account.

(b) The department shall update the account information reporting system at least quarterly.

Sec. 201.811. DEPARTMENT INFORMATION CONSOLIDATION. (a) To the extent practicable and to avoid duplication of reporting requirements, the department may combine the reports required under

this subchapter with reports required under other provisions of this code.

(b) The department shall develop a central location on the department's Internet website that provides easily accessible and searchable information to the public contained in the reports required under this subchapter and other provisions of this code.

(b) Not later than September 1, 2009, the Texas Department of Transportation shall establish the central location on the department's Internet website required by Sections 201.807 and 201.808, Transportation Code, as added by this section.

SECTION 2.07. Chapter 201, Transportation Code, is amended by adding Subchapter P to read as follows:

SUBCHAPTER P. PROJECT DEVELOPMENT PROGRAM

Sec. 201.981. DEFINITIONS. In this subchapter:

(1) "Local transportation entity" means an entity that participates in the transportation planning process. The term includes:

(A) a metropolitan planning organization;

(B) a rural planning organization;

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

(D) a regional transportation authority operating under Chapter 452;

(E) a rural transit district as defined by Section 458.001;

(F) a coordinated county transportation authority operating under Chapter 460; and

(G) a regional mobility authority operating under Chapter 370.

(2) "Planning organization" means:

(A) a metropolitan planning organization;

(B) a rural planning organization; or

(C) for an area that is not in the boundaries of a metropolitan planning organization or a rural planning organization, the department district.

(3) "Transportation project" means the planning, right-of-way acquisition, expansion, improvement, addition, or contract maintenance, other than the routine or contracted routine maintenance, of:

(A) a bridge;

(B) a highway;

(C) a toll road or toll road system;

(D) a railroad;

(E) an enhancement of a roadway that increases the safety of the traveling public;

(F) an air quality improvement initiative; or

(G) a transportation enhancement activity under 23 U.S.C. Section 133.

Sec. 201.982. PROJECT DEVELOPMENT PROGRAM. (a) The department shall develop a project development program that covers a period of 10 years to guide the development of and authorize construction of transportation projects. The program must:

(1) estimate funding levels for each year; and

(2) list all projects and programs that the department

intends to develop or begin construction of during the program period.

(b) The commission by rule shall:

(1) specify the criteria for selecting projects to be included in the program as provided in Section 201.987;

(2) define program funding categories, including categories for safety, bridge, maintenance, and mobility; and

(3) define each phase of a major transportation project, including the planning, design, and construction phases.

(c) The department shall publish the entire project development program and summary documents highlighting project benchmarks, priorities, and forecasts in appropriate media and on the department's Internet website.

(d) In developing the rules required by this section, the commission shall cooperate with local transportation entities.

Sec. 201.9825. ANNUAL UPDATE TO PROJECT DEVELOPMENT PROGRAM. (a) The department shall annually update the project development program.

(b) The annual update must include:

(1) the annual funding forecast required by Section 201.984;

(2) the list of major transportation projects required by Section 201.985(b); and

(3) the projects included in each program priority classification established by Section 201.986.

(c) The department shall collaborate with local transportation entities to develop the annual update to the project

development program.

Sec. 201.983. PLANNING ORGANIZATION 10-YEAR PLAN. (a) Each planning organization shall develop a 10-year transportation plan that is consistent with the criteria and definitions adopted by the commission under Section 201.982.

(b) The first four years of the plan shall be developed so as to comply with the transportation improvement plan requirements of federal law.

(c) In developing the statewide transportation improvement plan in accordance with federal law, the department shall:

(1) compile the metropolitan planning organizations' project selections; and

(2) collaborate with the rural planning organizations.

(d) The department shall develop the statewide transportation improvement plan in accordance with federal law.

Sec. 201.9835. PROJECT PRIORITIZATION BY PLANNING ORGANIZATIONS. (a) Each metropolitan planning organization shall, for the area in its boundaries, develop a prioritized list of transportation projects that is consistent with the criteria established by the commission under Section 201.987. Projects that are not considered by the department and the planning organization to be of an appropriate scale for individual identification in a given program year may be grouped by function, geographic area, or work type.

(b) The department shall, with input from a rural planning organization, develop a prioritized list of transportation

projects for the area in that rural planning organization's boundaries and submit the projects to the commission for final approval.

(c) For an area not located in the boundaries of a planning organization, the applicable department district shall:

(1) develop a prioritized list of transportation projects with input from municipal and county officials and officials of local transportation entities; and

(2) submit the transportation projects to the commission for final approval.

Sec. 201.984. ANNUAL FUNDING AND CASH FLOW FORECASTS. (a) The department annually shall:

(1) develop and publish a forecast of all funds the department expects to receive, including funds from this state and the federal government; and

(2) use that forecast to guide planning for the project development program.

(b) The department shall collaborate with local transportation entities to develop scenarios for the forecast required by Subsection (a) based on mutually acceptable funding assumptions.

(c) Not later than August 31 of each odd-numbered year, the department shall prepare and publish a cash flow forecast for the 10-year period that begins on September 1 of that odd-numbered year.

(d) The department shall update the forecast more frequently as needed if significant changes in the department's

funding occur.

Sec. 201.985. DESIGNATION AND INFORMATION ON CONSTRUCTION OF MAJOR TRANSPORTATION PROJECTS. (a) The commission by rule shall:

(1) establish criteria for designating a project as a major transportation project;

(2) develop benchmarks for evaluating the progress of a major transportation project and timelines for implementation and construction of a major transportation project; and

(3) determine which critical benchmarks must be met before a major transportation project may enter the implementation phase of the project development program.

(b) The department shall annually update the list of projects that are designated as major transportation projects.

(c) In adopting rules required by this section, the commission shall collaborate with local transportation entities.

Sec. 201.986. PROGRAM PRIORITY CLASSIFICATIONS. (a) The commission by rule shall establish classifications in the project development program to designate the priority of each project included in the program and shall assign each project a classification. The classifications must include high, medium, and low priority levels.

(b) The department shall collaborate with local transportation entities when assigning each project included in the project development program to a classification established under Subsection (a).

(c) In the selection of projects for implementation,

priority shall be given to projects with the highest classification within each applicable program funding category described by Section 201.982(b)(2).

Sec. 201.987. PROJECT SELECTION. (a) The commission by rule shall establish criteria for selection by the department and each planning organization of projects to be included in the statewide transportation plan. The criteria must be based on the commission's transportation goals for the state and measurable targets for each goal.

(b) The department shall collaborate with planning organizations in the development of the criteria for selection of projects.

(c) The commission shall determine and approve the final selection of projects to be included in the statewide transportation plan.

(d) The commission shall consider the prioritized list of transportation projects developed by metropolitan planning organizations operating in areas that are a transportation management area, as defined by 23 U.S.C. Section 134(k), for projects funded as congestion mitigation and air quality improvement projects, and metropolitan mobility or rehabilitation projects, unless the commission determines that a particular project's inclusion on or omission from the project list conflicts with or is inconsistent with federal law or a rule adopted under Subsection (a).

Sec. 201.988. FUNDING ALLOCATION. (a) The commission by rule shall establish formulas for allocating funds in each category

described by Section 201.982(b)(2).

(b) The commission shall update the formulas established under this section every five years or more frequently as necessary.

Sec. 201.9882. LIMITATION ON COMMISSION ALLOCATION OF FUNDS. (a) The commission or the department may not require that a toll project be included in a regional mobility plan as a condition for the allocation of funds for the construction of projects in the region.

(b) The commission or the department may not:

(1) revise the formula as provided in the department's project development program, or its successor document, in a manner that results in a decrease of a department district's allocation because of:

(A) the failure of a region to include toll projects in a regional mobility plan; or

(B) participation by a political subdivision in the funding of a transportation project in the region, including the use of money collected in a transportation reinvestment zone under Sections 222.106 and 222.107; or

(2) take any other action that would reduce funding allocated to a department district because of the failure of a region to include toll projects in a regional mobility plan.

Sec. 201.9884. FUND DISTRIBUTION. (a) The department shall allocate funds to the department districts based on the formulas adopted under Section 201.988.

(b) In distributing funds to department districts, the

department may not exceed the cash flow forecast prepared and published under Section 201.984(c).

Sec. 201.989. DEPARTMENT FOUR-YEAR BUSINESS WORK PLAN. (a) Each department district shall develop a consistently formatted work plan for the following four years that is based on the project development program and contains all projects and project categories that the district plans to implement during that period.

(b) The work plan must contain for each project and project category:

(1) a project schedule with funding for each phase of development;

(2) a right-of-way acquisition plan;

(3) a letting plan; and

(4) a summary of the progress on the project and project category.

(c) The department shall use the work plan to:

(1) monitor the performance of the district; and

(2) evaluate the performance of district employees.

(d) The department shall consolidate the districts' work plans into a statewide work plan and publish it in appropriate media and on the department's Internet website.

Sec. 201.9892. PERFORMANCE MEASURES FOR WORK PLAN. (a) The department shall develop a set of performance measures for the plan under Section 201.989 intended to measure:

(1) the execution of the work program;

(2) the efficiency and cost-effectiveness of its business practices;

(3) the preservation of the system investment;

(4) the addition of new capacity to the system;

(5) safety initiatives; and

(6) use of minority, disadvantaged, and small businesses.

(b) At a minimum, the performance measures adopted under Subsection (a) must include:

(1) the percentage of projects for which environmental clearance is obtained on or before the planned implementation timelines;

(2) the percentage of projects for which right-of-way acquisition is completed on or before the planned implementation timelines;

(3) the total amount spent for right-of-way as a percentage of the original estimated amount;

(4) the percentage of highway improvement contracts executed on or before the planned implementation timelines for letting;

(5) for all highway improvement contracts completed during the state fiscal year, the percentage completed within 20 percent of the original contract time;

(6) for all highway improvement contracts completed during the state fiscal year, the percentage completed within 10 percent of the original contract price;

(7) for all highway improvement contracts completed during the state fiscal year, the percentage of the total contract adjustments as a percentage of the total original contract price;

(8) of the federal funds subject to forfeiture at the end of the state fiscal year, the percentage that was committed by the department;

(9) the amounts of cash receipts and disbursements in contrast with the forecasted amounts;

(10) the amount obligated to be spent in connection with contracts or participation in contracts with minority, disadvantaged, and small business enterprises as a percentage of the amount spent on all contracts;

(11) the peak hour travel congestion in the eight largest metropolitan areas in contrast with previous state fiscal years; and

(12) the number of vehicle miles traveled in contrast with previous state fiscal years.

(c) The department shall consult with the Transportation Legislative Oversight Committee in developing the performance measures under Subsection (a). This subsection expires August 31, 2013.

Sec. 201.9895. PERFORMANCE REVIEW. Not later than December 1 of each odd-numbered year, the commission shall review the performance of the department's activities described in Section 201.989 and make the review available to the public. The review must include a report on the level of achievement of each performance measure listed in Section 201.9892(a), statewide and by department district, and a status report on each major transportation project under development.

SECTION 2.08. Subchapter A, Chapter 222, Transportation

Code, is amended by adding Section 222.004 to read as follows:

Sec. 222.004. AUTHORIZATION TO PROVIDE ASSISTANCE TO EXPEDITE ENVIRONMENTAL REVIEW. (a) The department, a county, a regional tollway authority operating under Chapter 366, or a regional mobility authority operating under Chapter 370 may enter into an agreement to provide funds to a state or federal agency to expedite the agency's performance of its duties related to the environmental review process for transportation projects:

(1) of the department;

(2) listed in a metropolitan planning organization's long-range transportation plan under 23 U.S.C. Section 134; or

(3) of a county, regional tollway authority operating under Chapter 366, or regional mobility authority operating under Chapter 370.

(b) Except as provided by Subsection (c), an agreement entered into under this section:

(1) may specify transportation projects the applicable entity considers to be priorities for review; and

(2) must require the agency receiving money to complete the environmental review in less time than is customary for the completion of an environmental review by that agency.

(c) The department may enter into a separate agreement for a transportation project that the department determines has regional importance.

(d) An agreement entered into under this section does not diminish or modify the rights of the public regarding review and

comment on transportation projects.

(e) An entity entering into an agreement under this section shall make the agreement available on the entity's Internet website.

SECTION 2.09. (a) The Texas Transportation Commission shall adopt the rules required by this article as soon as practicable but not later than March 1, 2010.

(b) Each planning organization, as defined by Section 201.981, Transportation Code, as added by this article, shall develop its first 10-year transportation plan in accordance with Section 201.983, Transportation Code, as added by this article, not later than March 1, 2011.

(c) The Texas Department of Transportation shall develop the programs and plans required under Subchapter P, Chapter 201, Transportation Code, as added by this article, as soon as practicable but not later than December 1, 2010.

SECTION 2.10. Subchapter D, Chapter 472, Transportation Code, is amended by adding Sections 472.0331 and 472.0332 to read as follows:

Sec. 472.0331. ORGANIZATION. (a) The governor shall designate, in accordance with 23 U.S.C. Section 134, a metropolitan planning organization for each urbanized area of this state having a population of more than 50,000.

(b) The policy board of a metropolitan planning organization is the governing body of that organization. Not more than 50 percent of the number of the voting members of the policy board must be elected officials whose jurisdictions are wholly or

partially in the boundaries of the metropolitan planning organization.

(c) A metropolitan planning organization is a governmental entity. The policy board is subject to Chapter 551, Government Code.

Sec. 472.0332. DUTIES. In addition to the requirements of federal law, a metropolitan planning organization shall perform the duties required by state law and those delegated by the commission under Subchapter H, Chapter 201.

SECTION 2.11. Subchapter D, Chapter 472, Transportation Code, is amended by adding Section 472.035 to read as follows:

Sec. 472.035. DUTIES. The duties of a metropolitan planning organization are to provide regional transportation forecasting and planning, set regional priorities, and make project selection decisions as provided by federal law and the commission. The organization shall not be involved in project development activities for individual projects, including environmental clearance, procurement, or management of the project design and construction process.

SECTION 2.12. (a) Chapter 472, Transportation Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. RURAL PLANNING ORGANIZATIONS

Sec. 472.151. DEFINITION. "Rural planning organization" means a planning organization created in accordance with Section 472.152 to carry out the rural transportation planning functions under Section 472.154 in areas that lie outside the boundaries of a metropolitan planning organization.

Sec. 472.152. CREATION OF RURAL PLANNING ORGANIZATION; BOUNDARIES. (a) A rural planning organization may be created by resolutions by the commissioners courts of:

(1) at least two counties, other than counties whose entire area is served by a metropolitan planning organization, that make up at least two-thirds of the counties in a regional planning commission under Chapter 391, Local Government Code; or

(2) at least two-thirds of the counties, other than counties whose entire area is served by a metropolitan planning organization, that make up a department district.

(b) As soon as practicable after its creation, a rural planning organization shall send notice of its creation to the commission.

(c) The boundaries of a rural planning organization created by counties described by Subsection (a)(1) are the boundaries of the area served by the regional planning commission. The boundaries of a rural planning organization created by counties described by Subsection (a)(2) are the boundaries of the department district.

Sec. 472.153. COMPOSITION OF BOARD OF DIRECTORS OF RURAL PLANNING ORGANIZATION. (a) A rural planning organization is governed by a board of directors whose membership must include:

(1) not more than 50 percent local elected officials representing political subdivisions located in the boundaries of the rural planning organization; and

(2) the district engineer of the department district or districts in the boundaries of the rural planning organization.

(b) The orders of the commissioners courts creating the organization under Section 472.152 must provide for the appointment of the initial board of directors.

(c) Additional directors may be appointed from residents of the area served by the rural planning organization in a manner determined by the board of directors.

Sec. 472.154. RURAL TRANSPORTATION PLANNING. (a) A rural planning organization shall:

(1) establish regional transportation priorities, and prioritize and recommend to the department projects of regional significance in the boundaries of the area served by the organization; and

(2) provide input to the department on projects involving the connectivity of the state highway system.

(b) A rural planning organization may provide planning assistance as may be necessary to support regional transportation priorities.

Sec. 472.155. DEPARTMENT PARTICIPATION. The department:

(1) shall provide funds and personnel to assist rural planning organizations with rural transportation planning, which may include:

(A) eligible federal planning funds not designated for metropolitan planning organizations;

(B) money appropriated to the department from the state highway funds; and

(C) other funds as may be available to fund the operations of a rural planning organization;

(2) shall work with rural planning organizations to identify available sources of funding for rural transportation planning, which may include federal funds or transportation development credits; and

(3) may contract with rural planning organizations to provide services necessary to support rural transportation planning.

(b) A rural planning organization created by board resolution of a council of governments before the effective date of this Act that otherwise conforms to the requirements of this section is recognized as having been validly created under this Act.

ARTICLE 3. PUBLIC INVOLVEMENT AND COMPLAINTS

SECTION 3.01. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.605 to read as follows:

Sec. 201.605. PUBLIC PARTICIPATION. (a) The commission by rule shall provide for the department to hold, or provide the opportunity for, one or more public hearings for any transportation project owned or operated by the department that requires the acquisition of significant amounts of rights-of-way, substantially changes the layout or functions of connecting roadways or of a facility being improved, has a substantial adverse impact on abutting property, or otherwise has a significant social, economic, environmental, or other effect, or for which the department determines that a public hearing is in the public interest. The rules must provide for the public's submission of oral or written comments and the department's preparation of written responses to

the comments. The department shall prepare a transcript of any oral comments submitted.

(b) The commission by rule shall provide for the department to hold, or provide the opportunity for, one or more public meetings for an informal exchange of information between the department and the public for a transportation project owned or operated by the department. The rules must provide for the public meetings to be held at the earliest stages of the project as possible.

(c) Notice of a public hearing or a public meeting under this section must:

(1) be by publication in the locality of the transportation project not less than seven or more than 20 days before the date of the hearing or meeting;

(2) be distributed to the public not less than seven days before the date of the hearing or meeting using methods suitable for the distribution given the nature of the transportation project and the populations that may be affected by it;

(3) be simple, readable, and informative;

(4) include:

(A) the name and description of the project;

(B) a map or graphic illustration of the project;

(C) the reason for the project;

(D) the purpose of the hearing or meeting;

(E) the location, date, and time of the hearing or meeting;

(F) a contact telephone number for information

about the hearing or meeting; and

(G) the Internet website address where project information and the materials used at the hearing or meeting may be viewed; and

(5) if the population that will be affected by the project is significantly non-English-speaking, also be published in the dominant language of a majority of that population.

(d) Any interested person may attend a public hearing or a public meeting held under this section.

(e) The department shall publish on its Internet website any materials used at a public hearing or public meeting not later than the third day after the date of the hearing or meeting.

(f) If the department holds more than one public hearing or one public meeting for a transportation project, the department shall vary the scheduling of the hearings or meetings to accommodate persons living in different geographic areas affected by the project and persons with varied work schedules.

(g) The department's presentation of information at a public hearing or meeting must include:

(1) the design and schematic layout of the project;

(2) the problem or need to be addressed by the project;

(3) a reference to the part of the department's mission, strategic plan, or legislative direction that is furthered by the project, and the project's relation to the local planning process;

(4) an explanation using diagrams, flowcharts, or other devices to illustrate procedural steps of the project, and an

estimated timeline leading to the completion of the project; and

(5) a discussion of significant impacts of the project.

(h) The department shall make available an electronic mail address or Internet website that may be used to submit public comments concerning a project.

(i) The commission by rule shall provide owners of adjoining property and affected local governments and public officials with notice and an opportunity for comment on a state highway project that involves:

(1) the addition of one or more vehicular lanes to an existing highway; or

(2) the construction of a highway at a new location.

(j) The commission by rule shall provide procedures for informing adjoining property owners and affected local governments and public officials of impending construction.

SECTION 3.02. (a) Section 201.801, Transportation Code, is amended to read as follows:

Sec. 201.801. [~~INFORMATION ABOUT DEPARTMENT.~~] COMPLAINTS. (a) The department shall maintain a system to promptly and efficiently act on complaints filed with the department. The department shall maintain information about the parties to and the subject matter of a complaint and a summary of the results of the review or investigation of the complaint and the disposition of the complaint.

(b) The department shall make information available describing its procedures for complaint investigation and

resolution [~~prepare information of public interest describing the functions of the department and the department's procedures by which a complaint is filed with the department and resolved by the department. The department shall make the information available to the public and appropriate state agencies~~].

[~~(b) The commission by rule shall establish methods by which consumers and service recipients are notified of the department's name, mailing address, and telephone number for directing complaints to the department. The commission may provide for that notification:~~

[~~(1) on each registration form, application, or written contract for services of an individual or entity regulated by the department;~~

[~~(2) on a sign prominently displayed in the place of business of each individual or entity regulated by the department; or~~

[~~(3) in a bill for service provided by an individual or entity regulated by the department.~~]

(c) [~~The department shall:~~

[~~(1) keep an information file about each written complaint filed with the department that the department has the authority to resolve; and~~

[~~(2) provide the person who filed the complaint, and each person or entity that is the subject of the complaint, information about the department's policies and procedures relating to complaint investigation and resolution.~~

[~~(d)~~] The department[~~, at least quarterly and until final~~

~~disposition of a written complaint that is filed with the department and that the department has the authority to resolve,~~] shall periodically notify the parties to the complaint of its status until final disposition unless the notice would jeopardize an undercover investigation.

(d) The commission shall adopt rules applicable to each division and district to establish a process to act on complaints filed with the department [~~(c) With regard to each complaint filed with the department, the department shall keep the following information:~~

[~~(1) the date the complaint is filed;~~

[~~(2) the name of the person filing the complaint;~~

[~~(3) the subject matter of the complaint;~~

[~~(4) a record of each person contacted in relation to the complaint;~~

[~~(5) a summary of the results of the review or investigation of the complaint; and~~

[~~(6) if the department takes no action on the complaint, an explanation of the reasons that no action was taken~~].

(e) The department shall develop a standard form for submitting a complaint and make the form available on its Internet website. The department shall establish a method to submit complaints electronically.

(f) The department shall develop a method for analyzing the sources and types of complaints and violations and establish categories for the complaints and violations. The department shall use the analysis to focus its information and education efforts on

specific problem areas identified through the analysis.

(g) The department shall:

(1) compile:

(A) detailed statistics and analyze trends on complaint information, including:

(i) the nature of the complaints;

(ii) their disposition; and

(iii) the length of time to resolve complaints; and

(B) complaint information on a district and a divisional basis; and

(2) report the information on a monthly basis to the division directors, office directors, and district engineers and on a quarterly basis to the commission.

(b) The Texas Department of Transportation shall adopt rules under Section 201.801, Transportation Code, as amended by this section, not later than March 1, 2010.

SECTION 3.03. Subchapter J, Chapter 201, Transportation Code, is amended by adding Section 201.812 to read as follows:

Sec. 201.812. PUBLIC INVOLVEMENT POLICY. (a) The department shall develop and implement a policy for public involvement that guides and encourages public involvement with the department. The policy must:

(1) provide for the use of public involvement techniques that target different groups and individuals;

(2) encourage continuous contact between the department and persons outside the department throughout the

transportation decision-making process;

(3) require the department to make efforts toward:

(A) clearly tying public involvement to decisions made by the department; and

(B) providing clear information to the public about specific outcomes of public input; and

(4) apply to all public input with the department, including input:

(A) on statewide transportation policy-making;

(B) in connection with the environmental process relating to specific projects; and

(C) into the department's rulemaking procedures.

(b) The department shall document the ratio of positive public input to negative public input regarding all environmental impact statements as expressed by the public through the department's public involvement process. The department shall:

(1) present this information to the commission in an open meeting; and

(2) report this information on the department's Internet website in a timely manner.

SECTION 3.04. Subchapter B, Chapter 203, Transportation Code, is repealed.

ARTICLE 4. CONTRACTING FUNCTIONS

SECTION 4.01. Section 223.002, Transportation Code, is amended to read as follows:

Sec. 223.002. NOTICE OF BIDS [~~BY PUBLICATION~~]. [~~(a)~~] The department shall give [~~publish~~] notice to interested persons

regarding [~~of~~] the time and place at which bids on a contract will be opened and the contract awarded. The department by rule shall determine the most effective method for providing the notice required by this section.

[~~(b) The notice must be published in a newspaper published in the county in which the improvement is to be made once a week for at least two weeks before the time set for awarding the contract and in two other newspapers that the department may designate.~~

[~~(c) Instead of the notice required by Subsection (b), if the department estimates that the contract involves an amount less than $300,000, notice may be published in two successive issues of a newspaper published in the county in which the improvement is to be made.~~

[~~(d) If a newspaper is not published in the county in which the improvement is to be made, notice shall be published in a newspaper published in the county:~~

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

[~~(2) in which a newspaper is published.~~]

SECTION 4.02. Section 223.205, Transportation Code, is amended by amending Subsections (a), (b), (d), (f), and (g) and adding Subsections (h) and (i) to read as follows:

(a) The [~~Notwithstanding Section 223.006 and the requirements of Subchapter B, Chapter 2253, Government Code, the~~] department shall require a private entity entering into a comprehensive development agreement under this subchapter to provide a performance and payment bond or an alternative form of

security, or a combination of forms of security, in an amount as determined by the department that is sufficient to:

(1) ensure the proper performance of the construction work to be performed under the agreement; and

(2) protect:

(A) the department; and

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

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

(d) A [~~payment or performance~~] bond or alternative form of security is not required for the portion of an agreement that is for [~~includes~~] only design or planning services, the performance of preliminary studies, [~~or~~] the acquisition of real property, maintenance, or operations.

(f) The [~~In addition to or instead of a performance and payment bond, the~~] department may require one or more of the following alternative forms of security:

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

(2) a United States bond or note;

(3) an irrevocable bank letter of credit; [~~or~~]

(4) debt and equity contributed by the private entity that is not recoverable in the event of termination of the agreement

because of the private entity's breach; or

(5) any other form of security determined suitable by the department.

(g) The commission [~~department~~] by rule shall prescribe requirements for an alternative form of security provided under this section.

(h) Section 223.006 of this code and Chapter 2253, Government Code, do not apply to a bond or alternative form of security required under this section.

(i) The commission shall prepare and file annually with the governor, the lieutenant governor, and the Legislative Budget Board a report providing information on the operations of highway projects for which a comprehensive development has been entered into with a private entity.

SECTION 4.03. Sections 223.201(a) and (g), Transportation Code, are amended to read as follows:

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

(1) state highway [~~toll project~~]; or

(2) facility, as defined by Section 227.001, or a combination of facilities on the Trans-Texas Corridor[~~+~~

[~~(3) state highway improvement project that includes both tolled and nontolled lanes and may include nontolled appurtenant facilities,~~

[~~(4) state highway improvement project in which the~~

~~private entity has an interest in the project; or~~

[~~(5) state highway improvement project financed wholly or partly with the proceeds of private activity bonds, as defined by Section 141(a), Internal Revenue Code of 1986~~].

(g) The department may combine in a comprehensive development agreement under this subchapter a state highway [~~toll project~~] and a rail facility as defined by Section 91.001.

SECTION 4.04. Section 223.203(e-2), Transportation Code, is amended to read as follows:

(e-2) In this section, "design-build contract" means a comprehensive development agreement that includes the design and construction of a [~~turnpike~~] project, does not include the financing of a [~~turnpike~~] project, and may include the acquisition, maintenance, or operation of a [~~turnpike~~] project.

SECTION 4.05. Section 223.203(m), Transportation Code, is amended to read as follows:

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

department, and does not confer liability on the recipient of the stipulated amount under this section. After acceptance and payment of the stipulated amount:

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

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

SECTION 4.06. Section 223.208(e), Transportation Code, is amended to read as follows:

(e) Notwithstanding anything in Section 201.112 or other law to the contrary, and subject to compliance with the dispute resolution procedures set out in the comprehensive development agreement, an obligation of the commission or the department under a comprehensive development agreement entered into under this subchapter or Section 227.023(c) to make or secure payments to a person because of the termination of the agreement, including the purchase of the interest of a private participant or other investor in a project, may be enforced by mandamus against the commission, the department, and the comptroller in a district court of Travis County, and the sovereign immunity of the state is waived for that purpose. The district courts of Travis County shall have exclusive jurisdiction and venue over and to determine and adjudicate all

issues necessary to adjudicate any action brought under this subsection. The remedy provided by this subsection is in addition to any legal and equitable remedies that may be available to a party to a comprehensive development agreement. This subsection does not apply to a design-build contract, as defined by Section 223.203(e-2), for a nontolled facility.

SECTION 4.07. Section 223.206(b), Transportation Code, is amended to read as follows:

(b) Notwithstanding Subsection (a), the department may enter into an agreement that provides for the lease of rights-of-way, the granting of easements, the issuance of franchises, licenses, or permits, or any lawful uses to enable a private entity to construct, operate, and maintain a project, including supplemental facilities. At the termination of the agreement, the highway or other facilities are to be in a state of proper maintenance as determined by the department and [~~shall be~~] returned to the department in satisfactory condition at no further cost other than any compensation the department agrees to pay on an early termination of the agreement. In lieu of the private entity's performing necessary maintenance, repair, or renewal work before returning the highway or other facilities to the department, the agreement may require payment to the department in the amount the department determines to be appropriate to fund maintenance, repair, or renewal work that is scheduled to occur subsequent to termination of the agreement.

SECTION 4.08. Subchapter C, Chapter 371, Transportation Code, as added by Chapter 264 (S.B. 792), Acts of the 80th

Legislature, Regular Session, 2007, is amended by adding Section 371.105 to read as follows:

Sec. 371.105. PROHIBITION AGAINST CONCESSION PAYMENTS; REVENUE SHARING. (a) In this section, "concession payment" means an up-front payment made by a private participant in return for which the private participant is granted a right to operate and receive revenue from a toll project.

(b) A toll project entity is prohibited from accepting a concession payment as part of a comprehensive development agreement.

(c) A toll project entity may enter into a revenue sharing agreement with a private participant as part of a comprehensive development agreement.

(d) This section does not apply to:

(1) the State Highway 161 project from State Highway 183 to Interstate Highway 20 in Dallas County;

(2) the United States Highway 281 project in Bexar County from Loop 1604 to the Comal County line;

(3) the Loop 49 project from Interstate Highway 20 to State Highway 110 in Smith County;

(4) the DFW Connector project in Tarrant and Dallas Counties (State Highway 114 from State Highway 114L Business to east of International Parkway and State Highway 121 from north of Farm-to-Market Road 2499 to south of State Highway 360);

(5) the North Tarrant Express project in Tarrant and Dallas Counties (Interstate Highway 820 and State Highway 121/State Highway 183 from Interstate Highway 35W to State Highway 161,

Interstate Highway 820 east from State Highway 121/State Highway 183 to Randol Mill Road, and Interstate Highway 35W from Interstate Highway 30 to State Highway 170);

(6) the United States Highway 290 project from east of United States Highway 183 to east of Farm-to-Market Road 973 in Travis County;

(7) the State Highway 99 (Grand Parkway) project;

(8) the Interstate Highway 635 managed lanes project in Dallas County (Interstate Highway 635 from east of Luna Road to Greenville Avenue and Interstate Highway 35E from south of the Loop 12/Interstate Highway 35E split to south of Valwood Parkway);

(9) Phase 4 extension of the Dallas North Tollway in Collin and Denton Counties from United States Highway 380 to the Grayson County line to be developed by North Texas Tollway Authority;

(10) the Southwest Parkway (State Highway 121) in Tarrant County from Interstate 30 to Dirks Road/Altamesa Boulevard and the Chisholm Trail project from Dirks Road/Altamesa Boulevard to U.S. Highway 67 in the City of Cleburne; or

(11) a comprehensive development agreement in connection with a project associated with any portion of the Loop 9 project that is located in a nonattainment air quality area as designated by the United States Environmental Protection Agency that includes two adjacent counties that each have a population of one million or more.

SECTION 4.09. Subsection (a), Section 371.151, Transportation Code, as added by Chapter 264 (S.B. 792), Acts of the

80th Legislature, Regular Session, 2007, is amended to read as follows:

(a) Before a toll project entity enters into a contract for the construction of a toll project, the entity shall publish in the manner provided by Section 371.152 information regarding:

(1) project financing, including:

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

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

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

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

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

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

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

(6) the initial toll rates, the methodology for increasing toll rates, and the projected toll rates at the end of the term of the contract; and

(7) the terms of any revenue sharing agreement [~~the projected total amount of concession payments~~].

SECTION 4.10. (a) The changes in law made by Section 371.151, Transportation Code, as amended by this article, and Section 371.105, Transportation Code, as added by this article, apply only to a comprehensive development agreement entered into on or after the effective date of this Act.

(b) A comprehensive development agreement entered into before the effective date of this Act is governed by the law in effect on the day the agreement was finalized, and the former law is continued in effect for that purpose.

ARTICLE 5. REGULATION OF MOTOR VEHICLE DEALERS, SALVAGE VEHICLE DEALERS, AND HOUSEHOLD GOODS CARRIERS

SECTION 5.01. (a) Section 643.153, Transportation Code, is amended by amending Subsection (b) and adding Subsections (c), (h), and (i) to read as follows:

(b) The department may adopt rules necessary to ensure that a customer of a motor carrier transporting household goods is protected from deceptive or unfair practices and unreasonably hazardous activities. The rules must:

(1) establish a formal process for resolving a dispute over a fee or damage;

(2) require a motor carrier to indicate clearly to a customer whether an estimate is binding or nonbinding and disclose the maximum price a customer could be required to pay;

(3) create a centralized process for making complaints about a motor carrier that also allows a customer to inquire about a

carrier's complaint record; [~~and~~]

(4) require a motor carrier transporting household goods to list a place of business with a street address in this state and the carrier's registration number issued under this article in any print advertising published in this state; and

(5) require a motor carrier transporting household goods to submit to the department, at the time of the original motor carrier registration and at the renewal of the registration, documentation on whether the motor carrier:

(A) regularly requests and obtains criminal history record information on its employees under Chapter 145, Civil Practice and Remedies Code; and

(B) uses the criminal history record information to exclude from employment persons who have committed a serious criminal offense.

(c) The department shall make available to the public on the department's Internet website the information received under Subsection (b)(5) to allow members of the public to make an informed choice when selecting a motor carrier to transport household goods.

(h) Subject to Subsection (i), the department may order a motor carrier that transports household goods to pay a refund to a customer as provided in an agreement resulting from an informal settlement instead of or in addition to imposing an administrative penalty under this chapter.

(i) The amount of a refund ordered as provided in an agreement resulting from an informal settlement may not exceed the amount the customer paid to the motor carrier for a service or the

amount the customer paid for an item damaged by the motor carrier, without requiring an estimation of the actual cost of the damage. The department may not require payment of other damages or estimate harm in a refund order.

(b) The change in law made by Sections 643.153(h) and (i), Transportation Code, as added by this section, applies only to an agreement to transport household goods entered into on or after the effective date of this Act. An agreement to transport household goods entered into before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 5.02. (a) Section 643.251(b), Transportation Code, is amended to read as follows:

(b) Except as provided by this section, the amount of an administrative penalty may not exceed $5,000. If it is found that the motor carrier knowingly committed the violation, the penalty may not exceed $15,000. [~~If it is found that the motor carrier knowingly committed multiple violations, the aggregate penalty for the multiple violations may not exceed $30,000.~~] Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(b) The change in law made by this section to Section 643.251, Transportation Code, applies only to a violation committed by a motor carrier on or after the effective date of this Act. For purposes of this subsection, a violation was committed before the effective date of this Act if any element of the violation was committed before that date. A violation committed by a motor

carrier before the effective date of this Act is covered by the law in effect on the date the violation was committed, and the former law is continued in effect for that purpose.

SECTION 5.03. Subchapter F, Chapter 643, Transportation Code, is amended by adding Sections 643.256 and 643.257 to read as follows:

Sec. 643.256. SUMMARY SUSPENSION. (a) The department may summarily suspend the registration of a motor carrier registered under this chapter if the motor carrier's failure to comply with this chapter or a rule adopted under this chapter is determined by the department to constitute a continuing and imminent threat to the public safety and welfare.

(b) To initiate a proceeding to take action under Subsection (a), the department must serve notice on the motor carrier. The notice must:

(1) state the grounds for summary suspension;

(2) be personally served on the motor carrier or sent to the motor carrier by certified or registered mail, return receipt requested, to the motor carrier's mailing address as it appears in the department's records; and

(3) inform the motor carrier of the right to a hearing on the suspension.

(c) The suspension is effective on the date notice is personally served or received by mail. The motor carrier is entitled to appeal the suspension in the manner provided by Section 643.2525 for the appeal of an order of the board.

Sec. 643.257. EMERGENCY CEASE AND DESIST ORDER. (a) If it

appears to the board that a motor carrier who is not registered to transport household goods for compensation under Section 643.051 is violating this chapter, a rule adopted under this chapter, or another state statute or rule relating to the transportation of household goods and the board determines that the unauthorized activity constitutes a clear, imminent, or continuing threat to the public health and safety, the board may:

(1) issue an emergency cease and desist order prohibiting the motor carrier from engaging in the activity; and

(2) report the activity to a local law enforcement agency or the attorney general for prosecution.

(b) An order issued under Subsection (a) must:

(1) be delivered on issuance to the motor carrier affected by the order by personal delivery or registered or certified mail, return receipt requested, to the motor carrier's last known address;

(2) state the acts or practices alleged to be an unauthorized activity and require the motor carrier immediately to cease and desist from the unauthorized activity; and

(3) contain a notice that a request for hearing may be filed under this section.

(c) A motor carrier against whom an emergency cease and desist order is directed may request a hearing before the 11th day after the date it is served on the motor carrier. If the motor carrier does not request a hearing in that time, the order is final and nonappealable as to that motor carrier. A request for a hearing must:

(1) be in writing and directed to the board; and

(2) state the grounds for the request to set aside or modify the order.

(d) On receiving a request for a hearing, the board shall serve notice of the time and place of the hearing by personal delivery or registered or certified mail, return receipt requested. The hearing must be held not later than the 10th day after the date the board receives the request for a hearing unless the parties agree to a later hearing date. A hearing under this subsection is subject to Chapter 2001, Government Code.

(e) After the hearing, the board shall affirm, modify, or set aside wholly or partly the emergency cease and desist order. An order affirming or modifying the emergency cease and desist order is immediately final for purposes of enforcement and appeal.

(f) An order under this section continues in effect unless the order is stayed by the board. The board may impose any condition before granting a stay of the order.

(g) The board may release to the public a final cease and desist order issued under this section or information regarding the existence of the order if the board determines that the release would enhance the effective enforcement of the order or will serve the public interest.

(h) A violation of an order issued under this section constitutes additional grounds for imposing an administrative penalty under this chapter.

SECTION 5.04. Section 2301.654, Occupations Code, is amended to read as follows:

Sec. 2301.654. PROBATION. If a suspension of a license is probated, the board may:

(1) require the license holder to report regularly to the board on matters that are the basis of the probation; [~~or~~]

(2) limit activities to those prescribed by the board; or

(3) require the license holder to obtain specialized training so that the license holder attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.

SECTION 5.05. Section 2301.801, Occupations Code, is amended by amending Subsections (a) and (c), and adding Subsections (d), (e), (f), and (g) to read as follows:

Sec. 2301.801. ADMINISTRATIVE [~~CIVIL~~] PENALTY. (a) If, after a proceeding under this chapter and board rules, the board determines that a person is violating or has violated this chapter, a rule adopted or order issued under this chapter, or Section 503.038(a), Transportation Code, the board may impose an administrative [~~a civil~~] penalty. The amount of the penalty may not exceed $10,000 for each violation. Each act of violation and each day a violation continues is a separate violation.

(c) The board by rule shall adopt a schedule of administrative penalties based on the criteria in Subsection (b) to ensure that the amount of a penalty imposed under this section is appropriate to the violation [~~Notwithstanding any other law to the contrary, a civil penalty recovered under this chapter shall be deposited in the state treasury to the credit of the state highway~~

~~fund~~].

(d) The enforcement of an administrative penalty ordered under this section may be stayed during the time the order is under judicial review if the person pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. A person who cannot afford to pay the penalty or file the bond may stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of the commission to contest the affidavit as provided by those rules.

(e) The attorney general may sue to collect an administrative penalty assessed under this section. The attorney general may recover on behalf of the state the reasonable expenses incurred in obtaining the penalty, including investigation and court costs, reasonable attorney's fees, witness fees, and other expenses.

(f) An administrative penalty collected under this section shall be deposited to the credit of the general revenue fund.

(g) A proceeding to impose an administrative penalty under this section is a contested case hearing under Chapter 2001, Government Code.

SECTION 5.06. (a) Subchapter Q, Chapter 2301, Occupations Code, is amended by adding Section 2301.808 to read as follows:

Sec. 2301.808. REFUND. (a) Subject to Subsection (b), the board may order a motor vehicle dealer to pay a refund to a consumer as provided in an agreement resulting from an informal settlement

instead of or in addition to imposing an administrative penalty under this chapter.

(b) The amount of a refund ordered as provided in an agreement resulting from an informal settlement may not exceed the amount the consumer paid to the motor vehicle dealer. The board may not require payment of other damages or estimate harm in a refund order.

(b) Subchapter H, Chapter 2302, Occupations Code, is amended by adding Section 2302.352 to read as follows:

Sec. 2302.352. ADMINISTRATIVE PENALTY. (a) The board may impose an administrative penalty on a salvage vehicle dealer licensed under this chapter who violates this chapter or a rule or order adopted under this chapter.

(b) The amount of an administrative penalty imposed under this section may not exceed $5,000. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty. The amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the economic harm to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) the threat to the public safety and welfare;

(6) efforts to correct the violation; and

(7) any other matter that justice may require.

(c) The board by rule shall adopt a schedule of

administrative penalties based on the criteria listed in Subsection (b) for violations subject to an administrative penalty under this section to ensure that the amount of a penalty imposed is appropriate to the violation.

(d) The enforcement of an administrative penalty may be stayed during the time the order is under judicial review if the person pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. A person who cannot afford to pay the penalty or file the bond may stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of the board to contest the affidavit as provided by those rules.

(e) The attorney general may sue to collect an administrative penalty imposed under this section. In the suit the attorney general may recover, on behalf of the state, the reasonable expenses incurred in obtaining the penalty, including investigation and court costs, reasonable attorney's fees, witness fees, and other expenses.

(f) An administrative penalty collected under this section shall be deposited in the general revenue fund.

(g) A proceeding to impose an administrative penalty under this section is a contested case under Chapter 2001, Government Code.

(c) The change in law made by Section 2301.808, Occupations Code, as added by this section, applies only to a motor vehicle purchased or leased on or after the effective date of this Act. A

motor vehicle purchased or leased before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

ARTICLE 6. REGULATION OF OUTDOOR ADVERTISING

SECTION 6.01. Section 391.004, Transportation Code, is amended to read as follows:

Sec. 391.004. TEXAS HIGHWAY BEAUTIFICATION FUND ACCOUNT. The Texas highway beautification fund account is an account in the general revenue fund. Money the commission receives under this chapter shall be deposited to the credit of the Texas highway beautification fund account. The commission shall use money in the Texas highway beautification fund account to administer this chapter and Chapter 394.

SECTION 6.02. (a) Subchapter A, Chapter 391, Transportation Code, is amended by adding Section 391.006 to read as follows:

Sec. 391.006. COMPLAINTS; RECORDS. (a) The department by rule shall establish procedures for accepting and resolving written complaints related to outdoor advertising under this chapter. The rules must include:

(1) a process to make information available describing its procedures for complaint investigation and resolution, including making information about the procedures available on the department's Internet website;

(2) a simple form for filing complaints with the department;

(3) a system to prioritize complaints so that the most

serious complaints receive attention before less serious complaints; and

(4) a procedure for compiling and reporting detailed annual statistics about complaints.

(b) The department shall provide on the department's Internet website information about the department's policies and procedures relating to complaint investigation and resolution. The department shall also provide that information to any person who requests a written copy of the information.

(c) The department shall keep for at least 10 years an information file about each written complaint filed with the department that the department has authority to resolve. The department shall keep the following information for each complaint for the purpose of enforcing this chapter:

(1) the date the complaint is filed;

(2) the name of the person filing the complaint;

(3) the subject matter of the complaint;

(4) each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) if the department does not take action on the complaint, an explanation of the reasons that action was not taken.

(d) If a written complaint is filed with the department that the department has authority to resolve, the department, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint

unless the notice would jeopardize an ongoing department investigation.

(b) The Texas Department of Transportation shall adopt rules under Section 391.006, Transportation Code, as added by this section, not later than September 1, 2010.

SECTION 6.03. Section 391.035(c), Transportation Code, is amended to read as follows:

(c) A penalty collected under this section shall be deposited to the credit of the Texas highway beautification [~~state highway~~] fund account if collected by the attorney general and to the credit of the county road and bridge fund of the county in which the violation occurred if collected by a district or county attorney.

SECTION 6.04. Subchapter B, Chapter 391, Transportation Code, is amended by adding Section 391.0355 to read as follows:

Sec. 391.0355. ADMINISTRATIVE PENALTY. (a) In lieu of a suit to collect a civil penalty, the commission, after notice and an opportunity for a hearing before the commission, may impose an administrative penalty against a person who violates this chapter or a rule adopted by the commission under this chapter. Each day a violation continues is a separate violation.

(b) The amount of the administrative penalty may not exceed the maximum amount of a civil penalty under Section 391.035.

(c) A proceeding under this section is a contested case under Chapter 2001, Government Code.

(d) Judicial review of an appeal of an administrative penalty imposed under this section is under the substantial

evidence rule.

(e) An administrative penalty collected under this section shall be deposited to the credit of the Texas highway beautification fund account.

SECTION 6.05. Section 391.063, Transportation Code, is amended to read as follows:

Sec. 391.063. LICENSE FEE. The commission may set the amount of a license fee according to a scale graduated by the number of units of outdoor advertising and number of off-premise signs under Chapter 394 owned by a license applicant.

SECTION 6.06. Section 391.065(b), Transportation Code, is amended to read as follows:

(b) For the efficient management and administration of this chapter and to reduce the number of employees required to enforce this chapter, the commission shall adopt rules for issuing standardized forms that are for submission by license holders and applicants and that provide for an accurate showing of the number, location, or other information required by the commission for each license holder's or applicant's outdoor advertising or off-premise signs under Chapter 394.

SECTION 6.07. Section 391.066, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) The commission may deny the renewal of a license holder's license if the license holder has not complied with the permit requirements of this chapter or Chapter 394.

SECTION 6.08. Subchapter C, Chapter 391, Transportation Code, is amended by adding Section 391.0661 to read as follows:

Sec. 391.0661. APPLICABILITY OF LICENSE. In addition to authorizing a person to erect or maintain outdoor advertising, a license issued under this chapter authorizes a person to erect or maintain an off-premise sign under Chapter 394.

SECTION 6.09. Section 391.254(c), Transportation Code, is amended to read as follows:

(c) A civil penalty collected by the attorney general under this section shall be deposited to the credit of the Texas highway beautification [~~state highway~~] fund account.

SECTION 6.10. Section 394.005, Transportation Code, is amended to read as follows:

Sec. 394.005. DISPOSITION OF FEES. Money the commission receives [~~A registration fee collected~~] under this chapter [~~Section 394.048 by the commission~~] shall be deposited to the credit of the Texas highway beautification [~~state highway~~] fund account.

SECTION 6.11. (a) Subchapter A, Chapter 394, Transportation Code, is amended by adding Section 394.006 to read as follows:

Sec. 394.006. COMPLAINTS; RECORDS. (a) The department by rule shall establish procedures for accepting and resolving written complaints related to signs under this chapter. The rules must include:

(1) a process to make information available describing its procedures for complaint investigation and resolution, including making information about the procedures available on the department's Internet website;

(2) a simple form for filing complaints with the

department;

(3) a system to prioritize complaints so that the most serious complaints receive attention before less serious complaints; and

(4) a procedure for compiling and reporting detailed annual statistics about complaints.

(b) The department shall provide on the department's Internet website information about the department's policies and procedures relating to complaint investigation and resolution. The department shall also provide that information to any person who requests a written copy.

(c) The department shall keep for at least 10 years an information file about each written complaint filed with the department that the department has authority to resolve. The department shall keep the following information for each complaint for the purpose of enforcing this chapter:

(1) the date the complaint is filed;

(2) the name of the person filing the complaint;

(3) the subject matter of the complaint;

(4) each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) if the department does not take action on the complaint, an explanation of the reasons that action was not taken.

(d) If a written complaint is filed with the department that the department has authority to resolve, the department, at least

quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an ongoing department investigation.

(b) The Texas Department of Transportation shall adopt rules under Section 394.006, Transportation Code, as added by this section, not later than September 1, 2010.

SECTION 6.12. The heading to Subchapter B, Chapter 394, Transportation Code, is amended to read as follows:

SUBCHAPTER B. LICENSE AND PERMIT FOR OFF-PREMISE SIGN

SECTION 6.13. (a) Subchapter B, Chapter 394, Transportation Code, is amended by adding Sections 394.0201, 394.0202, 394.0203, 394.0204, 394.0205, 394.0206, 394.0207, 394.027, 394.023, and 394.029 to read as follows:

Sec. 394.0201. ERECTING OFF-PREMISE SIGN WITHOUT LICENSE; OFFENSE. (a) A person commits an offense if the person wilfully erects or maintains an off-premise sign on a rural road without a license under this subchapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $500 or more than $1,000. Each day of the proscribed conduct is a separate offense.

(c) A person is not required to obtain a license to erect or maintain an on-premise sign.

Sec. 394.0202. ISSUANCE AND PERIOD OF LICENSE. (a) The commission shall issue a license to a person who:

(1) files with the commission a completed application form within the time specified by the commission;

(2) pays the appropriate license fee; and

(3) files with the commission a surety bond.

(b) A license may be issued for one year or longer.

(c) At least 30 days before the date on which a person's license expires, the commission shall notify the person of the impending expiration. The notice must be in writing and sent to the person's last known address according to the records of the commission.

Sec. 394.0203. LICENSE FEE. The commission may set the amount of a license fee according to a scale graduated by the number of off-premise signs and units of outdoor advertising under Chapter 391 owned by a license applicant.

Sec. 394.0204. SURETY BOND. (a) The surety bond required of an applicant for a license under Section 394.0202 must be:

(1) in the amount of $2,500 for each county in the state in which the person erects or maintains an off-premise sign; and

(2) payable to the commission for reimbursement for removal costs of an off-premise sign that the license holder unlawfully erects or maintains.

(b) A person may not be required to provide more than $10,000 in surety bonds.

Sec. 394.0205. RULES; FORMS. (a) The commission may adopt rules to implement Sections 394.0201(a), 394.0202, 394.0203, 394.0204, and 394.0206.

(b) For the efficient management and administration of this chapter and to reduce the number of employees required to enforce

this chapter, the commission shall adopt rules for issuing standardized forms that are for submission by license holders and applicants and that provide for an accurate showing of the number, location, or other information required by the commission for each license holder's or applicant's off-premise signs or outdoor advertising under Chapter 391.

Sec. 394.0206. REVOCATION OR SUSPENSION OF LICENSE; APPEAL. (a) The commission may revoke or suspend a license issued under this subchapter or place on probation a license holder whose license is suspended if the license holder violates this chapter or a rule adopted under this chapter. If the suspension of the license is probated, the department may require the license holder to report regularly to the commission on any matter that is the basis of the probation.

(b) The judicial appeal of the revocation or suspension of a license must be initiated not later than the 15th day after the date of the commission's action.

(c) The commission may adopt rules for the reissuance of a revoked or suspended license and may set fees for the reissuance.

(d) The commission may deny the renewal of a license holder's existing license if the license holder has not complied with the permit requirements of this chapter or Chapter 391.

Sec. 394.0207. APPLICABILITY OF LICENSE. In addition to authorizing a person to erect or maintain an off-premise sign, a license issued under this chapter authorizes a person to erect or maintain outdoor advertising under Chapter 391.

Sec. 394.027. FEE AMOUNTS. The license and permit fees

required by this subchapter may not exceed an amount reasonably necessary to cover the administrative costs incurred to enforce this chapter.

Sec. 394.028. EXCEPTIONS FOR CERTAIN NONPROFIT ORGANIZATIONS. (a) The combined license and permit fees under this subchapter may not exceed $10 for an off-premise sign erected and maintained by a nonprofit organization in a municipality or a municipality's extraterritorial jurisdiction if the sign relates to or promotes only the municipality or a political subdivision whose jurisdiction is wholly or partly concurrent with the municipality.

(b) The nonprofit organization is not required to file a bond as provided by Section 394.0202(a)(3).

Sec. 394.029. DENIAL OF PERMIT; APPEAL. The commission may create a process by which an applicant may appeal a denial of a permit under this subchapter.

(b) The change in law made by Section 394.0201, Transportation Code, as added by this section, applies only to an off-premise sign erected or for which the permit expires on or after the effective date of this Act. An off-premise sign for which a permit is issued before the effective date of this Act is covered by the law in effect when the permit was issued, and the former law is continued in effect for that purpose.

SECTION 6.14. Section 394.050, Transportation Code, is amended to read as follows:

Sec. 394.050. [~~BOARD OF~~] VARIANCE. The executive director or a person designated by the executive director [~~commission shall~~

~~provide for a board of variance that~~], in an appropriate case and subject to an appropriate condition or safeguard, may make a special exception to this chapter regarding a permit for an off-premise outdoor sign on a rural road.

SECTION 6.15. Section 394.081(c), Transportation Code, is amended to read as follows:

(c) A civil penalty collected under this section shall be deposited to the credit of the Texas highway beautification [~~state highway~~] fund account if collected by the attorney general and to the credit of the county road and bridge fund if collected by a district or county attorney.

SECTION 6.16. Sections 394.082(a), (d), and (e), Transportation Code, are amended to read as follows:

(a) In lieu of a suit to collect a civil penalty, the commission, after notice and an opportunity for a hearing before the commission, may impose an administrative penalty against a person who [~~intentionally~~] violates this chapter or a rule adopted by the commission under this chapter. Each day a violation continues is a separate violation.

(d) Judicial review of an appeal of an administrative penalty imposed under this section is under the substantial evidence rule [~~by trial de novo~~].

(e) An administrative penalty collected under this section shall be deposited to the credit of the Texas highway beautification [~~state highway~~] fund account.

SECTION 6.17. Section 391.065(c), Transportation Code, is repealed.

ARTICLE 7. PUBLIC TRANSPORTATION

SECTION 7.01. Section 301.063(f), Labor Code, is repealed.

ARTICLE 8. TEXAS DEPARTMENT OF MOTOR VEHICLES

PART 1. GENERAL PROVISIONS

SECTION 8.1.01. Title 7, Transportation Code, is amended by adding Subtitle M to read as follows:

SUBTITLE M. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 1001. ORGANIZATION OF DEPARTMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1001.001. DEFINITIONS. In this subtitle:

(1) "Board" means the board of the department.

(2) "Department" means the Texas Department of Motor Vehicles.

Sec. 1001.002. CREATION OF DEPARTMENT; DUTIES. (a) The department is created as an agency of this state.

(b) In addition to the other duties required of the Texas Department of Motor Vehicles, the department shall administer and enforce:

(1) Subtitle A;

(2) Chapters 642, 643, 645, 646, and 648; and

(3) Chapters 2301 and 2302, Occupations Code.

Sec. 1001.003. COMPOSITION OF DEPARTMENT. The department is composed of an executive director appointed by the board and other employees required to efficiently implement:

(1) this subtitle;

(2) other applicable vehicle laws of this state; and

(3) other laws that grant jurisdiction to or are

applicable to the department.

Sec. 1001.004. DIVISIONS. The board shall organize the department into divisions to accomplish the department's functions and the duties assigned to it, including divisions for:

(1) administration;

(2) motor carriers;

(3) motor vehicle distribution; and

(4) vehicle titles and registration.

Sec. 1001.005. SUNSET PROVISION. The department is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2015.

Sec. 1001.006. DEFENSE BY ATTORNEY GENERAL. The attorney general shall defend an action brought against the board or the department or an action brought against an employee of the department as a result of the employee's official act or omission, regardless of whether at the time of the institution of the action that person has terminated service with the department.

[Sections 1001.007-1001.020 reserved for expansion]

SUBCHAPTER B. BOARD OF DEPARTMENT OF MOTOR VEHICLES

Sec. 1001.021. BOARD. (a) The board consists of nine members appointed by the governor with the advice and consent of the senate.

(b) Three members must be persons who hold a dealer's license issued under Chapter 2301, Occupations Code, of whom two must be franchised dealers of different classes and one must be an independent dealer; one member must be a representative of a

manufacturer or distributor that holds a license issued under Chapter 2301, Occupations Code; one member must be a tax assessor-collector; one member must be a representative of a law enforcement agency of a county or municipality; and one member must be a representative of the motor carrier industry. The remaining members must be public members.

(c) Except as necessary to comply with Subsection (b), a person is not eligible for appointment as a member of the board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization that is regulated by or receives funds from the department;

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

(3) uses or receives a substantial amount of tangible goods, services, or funds from the department, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses; or

(4) is registered, certified, or licensed by the department.

(d) A person required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department may not serve as a member of the board.

(e) Appointments to the board shall be made without regard to race, color, disability, sex, religion, age, or national origin

of the appointees and shall reflect the diversity of the population of the state as a whole.

Sec. 1001.022. TERMS. Members of the board serve staggered six-year terms, with the terms of either one or two members expiring February 1 of each odd-numbered year.

Sec. 1001.023. CHAIR AND VICE CHAIR; DUTIES. (a) The governor shall appoint one of the board's members chair of the board. The board shall elect one of its members vice chair of the board. A chair or vice chair serves at the pleasure of the board.

(b) The chair shall:

(1) preside over board meetings, make rulings on motions and points of order, and determine the order of business;

(2) represent the department in dealing with the governor;

(3) report to the governor on the state of affairs of the department at least quarterly;

(4) report to the board the governor's suggestions for department operations;

(5) report to the governor on efforts, including legislative requirements, to maximize the efficiency of department operations through the use of private enterprise;

(6) periodically review the department's organizational structure and submit recommendations for structural changes to the governor, the board, and the Legislative Budget Board;

(7) designate one or more employees of the department as a civil rights division of the department and receive regular

reports from the division on the department's efforts to comply with civil rights legislation and administrative rules;

(8) create subcommittees, appoint board members to subcommittees, and receive the reports of subcommittees to the board as a whole;

(9) appoint a member of the board to act in the chair's absence; and

(10) serve as the departmental liaison with the governor and the Office of State-Federal Relations to maximize federal funding for transportation.

Sec. 1001.024. BOARD MEETINGS. The board shall hold regular meetings at least quarterly and special meetings at the call of the chair. Board members shall attend the meetings of the board. The chair shall oversee the preparation of an agenda for each meeting and ensure that a copy is provided to each board member at least seven days before the meeting.

Sec. 1001.025. RECOMMENDATIONS TO LEGISLATURE. (a) The board shall consider ways in which the department's operations may be improved and may periodically report to the legislature concerning potential statutory changes that would improve the operation of the department.

(b) On behalf of the board, the chair shall report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of relevant legislative committees on legislative recommendations adopted by the board and relating to the operation of the department.

Sec. 1001.026. COMPENSATION. A member of the board is

entitled to compensation as provided by the General Appropriations Act. If compensation for board members is not provided by that Act, each member is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member of the board.

Sec. 1001.027. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the board if a board member:

(1) does not have at the time of appointment or maintain during service on the board the qualifications required by Section 1001.021;

(2) violates a prohibition provided by Section 1001.021;

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

(4) is absent from more than half of the regularly scheduled board meetings that the board member is eligible to attend during a calendar year, unless the absence is excused by majority vote of the board.

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

(c) If the executive director of the department knows that a potential ground for removal exists, the director shall notify the chair of the board of the ground, and the chair shall notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal relates to the chair, the director shall notify another board member, who shall

notify the governor and the attorney general that a potential ground for removal exists.

Sec. 1001.028. CONFLICT OF INTEREST. (a) A member of the board shall disclose in writing to the executive director if the member has an interest in a matter before the board or has a substantial financial interest in an entity that has a direct interest in the matter.

(b) The member shall recuse himself or herself from the board's deliberations and actions on the matter in Subsection (a) and may not participate in the board's decision on the matter.

(c) A person has a substantial financial interest in an entity if the person:

(1) is an employee, member, director, or officer of the entity; or

(2) owns or controls, directly or indirectly, more than a five percent interest in the entity.

Sec. 1001.029. INFORMATION ON QUALIFICATIONS AND CONDUCT. The department shall provide to the members of the board, as often as necessary, information concerning the members' qualifications for office and their responsibilities under applicable laws relating to standards of conduct for state officers.

Sec. 1001.030. TRAINING ON DEPARTMENT AND CERTAIN LAWS RELATING TO DEPARTMENT. (a) To be eligible to take office as a member of the board, a person appointed to the board must complete at least one course of a training program that complies with this section.

(b) The training program must provide information to the

person regarding:

(1) this subchapter;

(2) the programs operated by the department;

(3) the role and functions of the department;

(4) the rules of the department with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the department;

(6) the results of the most recent formal audit of the department;

(7) the requirements of the:

(A) open meetings law, Chapter 551, Government Code;

(B) open records law, Chapter 552, Government Code; and

(C) administrative procedure law, Chapter 2001, Government Code;

(8) the requirements of the conflict of interest laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act and as if the person were a member of the board.

Sec. 1001.031. ADVISORY COMMITTEES. (a) The board shall establish separate advisory committees for the motor carrier, motor vehicles, and vehicle titles and registration divisions to make

recommendations to the board or the executive director on the operation of the applicable division. A committee has the purposes, powers, and duties, including the manner of reporting its work, prescribed by the board. A committee and each committee member serves at the will of the board.

(b) The board shall appoint persons to each advisory committee who:

(1) are selected from a list provided by the executive director; and

(2) have knowledge about and interests in, and represent a broad range of viewpoints about, the work of the committee or applicable division.

(c) The advisory committee for the motor vehicles division must include a member to represent motor vehicle manufacturers and a member to represent the recreational vehicle industry.

(d) The advisory committee for the motor carrier division must include a member to represent the motor transportation industry.

(e) A member of an advisory committee may not be compensated by the board or the department for committee service.

[Sections 1001.032-1001.040 reserved for expansion]

SUBCHAPTER C. PERSONNEL

Sec. 1001.041. DEPARTMENT PERSONNEL. (a) Subject to the General Appropriations Act or other law, the executive director shall appoint deputies, assistants, and other personnel as necessary to carry out the powers and duties of the department under this code, other applicable vehicle laws of this state, and other

laws granting jurisdiction or applicable to the department.

(b) A person appointed under this section must have the professional and administrative experience necessary to qualify the person for the position to which the person is appointed.

Sec. 1001.042. DIVISION OF RESPONSIBILITIES. The board shall develop and implement policies that clearly define the respective responsibilities of the director and the staff of the department.

Sec. 1001.043. EQUAL EMPLOYMENT OPPORTUNITY POLICY; REPORT. (a) The executive director or the director's designee shall prepare and maintain a written policy statement to ensure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with Chapter 21, Labor Code;

(2) a comprehensive analysis of the department workforce that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the department workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

(b) A policy statement prepared under this section must:

(1) cover an annual period;

(2) be updated annually;

(3) be reviewed by the civil rights division of the Texas Workforce Commission for compliance with Subsection (a); and

(4) be filed with the governor.

(c) The governor shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as a part of other biennial reports made to the legislature.

Sec. 1001.044. QUALIFICATIONS AND STANDARDS OF CONDUCT. The executive director shall provide to department employees, as often as necessary, information regarding their:

(1) qualification for office or employment under this subtitle; and

(2) responsibilities under applicable laws relating to standards of conduct for state employees.

Sec. 1001.045. CAREER LADDER PROGRAM; PERFORMANCE EVALUATIONS. (a) The executive director or the director's designee shall develop an intra-agency career ladder program. The program must require intra-agency posting of all nonentry level positions concurrently with any public posting.

(b) The executive director or the director's designee shall develop a system of annual performance evaluations. All merit pay for department employees must be based on the system established under this subsection.

CHAPTER 1002. RULES

Sec. 1002.001. GENERAL RULEMAKING AUTHORITY. The board may adopt any rules necessary and appropriate to implement the powers and duties of the department under this code and other laws of this state.

Sec. 1002.002. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. The board may not adopt rules restricting advertising or competitive bidding by a person regulated by the department except to prohibit false, misleading, or deceptive practices by the person.

CHAPTER 1003. DEPARTMENT PROCEDURES

Sec. 1003.001. APPLICABILITY OF CERTAIN LAWS. Except as specifically provided by law, the department is subject to Chapters 2001 and 2002, Government Code.

Sec. 1003.002. SUMMARY PROCEDURES FOR ROUTINE MATTERS. (a) The board or the department by rule may:

(1) create a summary procedure for routine matters; and

(2) designate department activities that otherwise would be subject to Chapter 2001, Government Code, as routine matters to be handled under the summary procedure.

(b) An activity may be designated as a routine matter only if the activity is:

(1) voluminous;

(2) repetitive;

(3) believed to be noncontroversial; and

(4) of limited interest to anyone other than persons

immediately involved in or affected by the proposed department action.

(c) The rules may establish procedures different from those contained in Chapter 2001, Government Code. The procedures must require, for each party directly involved, notice of a proposed negative action not later than the fifth day before the date the action is proposed to be taken.

(d) A rule adopted by the board under this section may provide for the delegation of authority to take action on a routine matter to a salaried employee of the department designated by the board.

Sec. 1003.003. REVIEW OF ACTION ON ROUTINE MATTER. (a) A person directly or indirectly affected by an action of the board or the department on a routine matter taken under the summary procedure adopted under Section 1003.002 is entitled to a review of the action under Chapter 2001, Government Code.

(b) The person must apply to the board not later than the 60th day after the date of the action to be entitled to the review.

(c) The timely filing of the application for review immediately stays the action pending a hearing on the merits.

(d) The board may adopt rules relating to an application for review under this section and consideration of the application.

Sec. 1003.004. INFORMAL DISPOSITION OF CERTAIN CONTESTED CASES. The board or the department, as applicable, may, on written agreement or stipulation of each party and any intervenor, informally dispose of a contested case in accordance with Section 2001.056, Government Code, notwithstanding any provision of this

code or other law that requires a hearing before the board or the department, as applicable.

CHAPTER 1004. PUBLIC ACCESS

Sec. 1004.001. ACCESS TO PROGRAMS AND FACILITIES. (a) The department shall prepare and maintain a written plan that describes how a person who does not speak English may be provided reasonable access to the department's programs.

(b) The department shall comply with federal and state laws for program and facility accessibility.

Sec. 1004.002. PUBLIC COMMENT. The board and the department shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board or the department and to speak on any issue under the jurisdiction of the board or the department.

Sec. 1004.003. PUBLIC REPRESENTATION ON ADVISORY BODY. (a) At least one-half of the membership of each advisory body appointed by the board, other than an advisory body whose membership is determined by this code or by other law, must represent the general public.

(b) A public representative may not be:

(1) an officer, director, or employee of a business entity regulated by the department;

(2) a person required to register with the Texas Ethics Commission under Chapter 305, Government Code; or

(3) a person related within the second degree by affinity or consanguinity to a person described by Subdivision (1) or (2).

CHAPTER 1005. STANDARDS OF CONDUCT

Sec. 1005.001. APPLICATION OF LAW RELATING TO ETHICAL CONDUCT. The board, the executive director, and each employee or agent of the department is subject to the code of ethics and the standard of conduct imposed by Chapter 572, Government Code, and any other law regulating the ethical conduct of state officers and employees.

PART 2. TRANSFER OF DUTIES AND FUNCTIONS OF THE TEXAS DEPARTMENT OF TRANSPORTATION

SUBPART A. GENERAL PROVISIONS AND ADMINISTRATION

SECTION 8.2A.01. Section 201.202(a), Transportation Code, is amended to read as follows:

(a) The commission shall organize the department into divisions to accomplish the department's functions and the duties assigned to it, including divisions for:

(1) aviation;

(2) highways and roads; and

(3) public transportation[~~; and~~

[~~(4) motor vehicle titles and registration~~].

SECTION 8.2A.02. Section 201.931(2), Transportation Code, is amended to read as follows:

(2) "License" includes:

(A) a permit issued by the department that authorizes the operation of a vehicle and its load or a combination of vehicles and load exceeding size or weight limitations; and

(B) [~~a motor carrier registration issued under Chapter 643;~~

[~~(C) a vehicle storage facility license issued under Chapter 2303, Occupations Code;~~

[~~(D)~~] a license or permit for outdoor advertising issued under Chapter 391 or 394[~~;~~

[~~(E) a salvage vehicle dealer or agent license issued under Chapter 2302, Occupations Code;~~

[~~(F) specially designated or specialized license plates issued under Subchapters E and F, Chapter 502; and~~

[~~(G) an apportioned registration issued according to the International Registration Plan under Section 502.054~~].

SUBPART B. STATE HIGHWAY TOLL PROJECTS

SECTION 8.2B.01. Sections 228.055(b) and (h), Transportation Code, are amended to read as follows:

(b) The department may impose and collect the administrative fee, so as to recover the cost of collecting the unpaid toll, not to exceed $100. The department 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 Texas Department of Motor Vehicles [~~department~~] by first class mail 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 Section 228.054.

(h) In this section, "registered owner" means the owner of a vehicle as shown on the vehicle registration records of the Texas Department of Motor Vehicles [~~department~~] or the analogous

department or agency of another state or country.

SECTION 8.2B.02. Section 228.056(b), Transportation Code, is amended to read as follows:

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

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

(2) a computer record of the Texas Department of Motor Vehicles [~~department~~] of the registered owner of the vehicle is prima facie evidence of its contents and that the defendant was the registered owner of the vehicle when the underlying event of nonpayment under Section 228.054 occurred; and

(3) a copy of the rental, lease, or other contract document covering the vehicle on the date of the underlying event of nonpayment under Section 228.054 is prima facie evidence of its contents and that the defendant was the lessee of the vehicle when the underlying event of nonpayment under Section 228.054 occurred.

SUBPART C. CAUSEWAYS, BRIDGES, TUNNELS, TURNPIKES, FERRIES, AND HIGHWAYS IN CERTAIN COUNTIES

SECTION 8.2C.01. Sections 284.0701(b), (e), and (h), Transportation Code, are amended to read as follows:

(b) The county may impose and collect the administrative cost so as to recover the expense of collecting the unpaid toll, not to exceed $100. The county 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 Texas Department of Motor Vehicles [~~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 cost for each event of nonpayment under Section 284.070.

(e) It is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle transferred ownership of the vehicle to another person before the event of nonpayment under Section 284.070 occurred, submitted written notice of the transfer to the Texas Department of Motor Vehicles [~~department~~] in accordance with Section 520.023, and before the 30th day after the date the notice of nonpayment is mailed, provides to the county the name and address of the person to whom the vehicle was transferred. If the former owner of the vehicle provides the required information within the period prescribed, the county may send a notice of nonpayment to the person to whom ownership of the vehicle was transferred at the address provided by the former owner by first-class mail before the 30th day after the date of receipt of the required information from the former owner. The subsequent owner of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative cost within the time specified by the notice of nonpayment commits an offense. The subsequent owner shall pay a separate toll and administrative cost for each event of nonpayment under Section 284.070. Each failure to pay a toll or administrative cost under this subsection is a separate offense.

(h) In this section, "registered owner" means the owner of a vehicle as shown on the vehicle registration records of the Texas Department of Motor Vehicles [~~department~~] or the analogous department or agency of another state or country.

SUBPART D. CERTIFICATE OF TITLE ACT

SECTION 8.2D.01. Section 501.002(3), Transportation Code, is amended to read as follows:

(3) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SUBPART E. REGISTRATION OF VEHICLES

SECTION 8.2E.01. Section 502.001, Transportation Code, is amended by adding Subdivision (1-a) and amending Subdivision (3) to read as follows:

(1-a) "Board" means the board of the Texas Department of Motor Vehicles.

(3) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 8.2E.02. Section 502.051, Transportation Code, is amended to read as follows:

Sec. 502.051. DEPOSIT OF REGISTRATION FEES IN STATE HIGHWAY FUND. Except as otherwise provided by this chapter, the board [~~Texas Transportation Commission~~] and the department shall deposit all money received from registration fees in the state treasury to the credit of the state highway fund.

SECTION 8.2E.03. Section 502.052(a), Transportation Code, is amended to read as follows:

(a) The department shall prepare the designs and

specifications of license plates and devices selected by the board [~~Texas Transportation Commission~~] to be used as the registration insignia.

SECTION 8.2E.04. Sections 502.053(a) and (b), Transportation Code, are amended to read as follows:

(a) The department [~~Texas Department of Transportation~~] shall reimburse the Texas Department of Criminal Justice for the cost of manufacturing license plates or registration insignia as the license plates or insignia and the invoice for the license plates or insignia are delivered to the department [~~Texas Department of Transportation~~].

(b) When manufacturing is started, the Texas Department of Criminal Justice, the department [~~Texas Department of Transportation~~], and the comptroller, after negotiation, shall set the price to be paid for each license plate or insignia. The price must be determined from:

(1) the cost of metal, paint, and other materials purchased;

(2) the inmate maintenance cost per day;

(3) overhead expenses;

(4) miscellaneous charges; and

(5) a previously approved amount of profit for the work.

SECTION 8.2E.05. Section 502.1515, Transportation Code, is amended to read as follows:

Sec. 502.1515. OUTSOURCING PRODUCTION OF RENEWAL NOTICES; PAID ADVERTISING. The board [~~commission~~] may authorize the

department to enter into a contract with a private vendor to produce and distribute motor vehicle registration renewal notices. The contract may provide for the inclusion of paid advertising in the registration renewal notice packet.

SECTION 8.2E.06. Section 502.352(c), Transportation Code, is amended to read as follows:

(c) A person may obtain a permit under this section by:

(1) applying to the county assessor-collector, the department, or the department's wire service agent, if the department has a wire service agent;

(2) paying a fee of $25 for a 72-hour permit or $50 for a 144-hour permit:

(A) in cash;

(B) by postal money order;

(C) by certified check;

(D) by wire transfer through the department's wire service agent, if any;

(E) by an escrow account; or

(F) where the service is provided, by a credit card issued by:

(i) a financial institution chartered by a state or the United States; or

(ii) a nationally recognized credit organization approved by the board [~~Texas Transportation Commission~~];

(3) paying a discount or service charge for a credit card payment or escrow account, in addition to the fee; and

(4) furnishing to the county assessor-collector, the department, or the department's wire service agent, evidence of financial responsibility for the vehicle that complies with Sections 502.153(c) and 601.168(a) and is written by an insurance company or surety company authorized to write motor vehicle liability insurance in this state.

SECTION 8.2E.07. Section 502.355(h), Transportation Code, is amended to read as follows:

(h) A person operating a vehicle under a permit issued under this section commits an offense if the person:

(1) transports farm products to a place of market, storage, or processing or a railhead or seaport that is farther from the place of production or point of entry, as appropriate, than the distance provided for in the permit; or

(2) follows a route other than that prescribed by the board [~~Texas Transportation Commission~~].

SUBPART F. DEALER'S AND MANUFACTURER'S VEHICLE LICENSE PLATES

SECTION 8.2F.01. Sections 503.001(2) and (5), Transportation Code, are amended to read as follows:

(2) "Commission" means the board of the Texas Department of Motor Vehicles [~~Texas Transportation Commission~~].

(5) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SUBPART G. SPECIALTY LICENSE PLATES

SECTION 8.2G.01. Section 504.001(a), Transportation Code, is amended to read as follows:

(a) In this chapter:

(1) "Board" means the board of the Texas Department of Motor Vehicles [~~, "commission" and "director" have the meanings assigned by Section 201.001~~].

(2) "Department" means the Texas Department of Motor Vehicles.

SECTION 8.2G.02. Section 504.004, Transportation Code, is amended to read as follows:

Sec. 504.004. RULES AND FORMS. The board [~~commission~~] may adopt rules and the department may issue forms to implement and administer this chapter.

SECTION 8.2G.03. Sections 504.851(b), (c), and (d), Transportation Code, are amended to read as follows:

(b) Instead of the fees established by Section 504.101(c), the board [~~commission~~] by rule shall establish fees for the issuance or renewal of personalized license plates that are marketed and sold by the private vendor. Fees must be reasonable and not less than the greater of:

(1) the amounts necessary to allow the department to recover all reasonable costs to the department associated with the evaluation of the competitive sealed proposals received by the department and with the implementation and enforcement of the contract, including direct, indirect, and administrative costs; or

(2) the amount established by Section 504.101(c).

(c) The board [~~commission~~] by rule shall establish the fees for the issuance or renewal of souvenir license plates, specialty license plates, or souvenir or specialty license plates that are personalized that are marketed and sold by the private

vendor. Fees must be reasonable and not less than the amounts necessary to allow the department to recover all reasonable costs to the department associated with the evaluation of the competitive sealed proposals received by the department and with the implementation and enforcement of the contract, including direct, indirect, and administrative costs. A fee established under this subsection is in addition to:

(1) the registration fee and any optional registration fee prescribed by this chapter for the vehicle for which specialty license plates are issued;

(2) any additional fee prescribed by this subchapter for the issuance of specialty license plates for that vehicle; and

(3) any additional fee prescribed by this subchapter for the issuance of personalized license plates for that vehicle.

(d) At any time as necessary to comply with Subsection (b) or (c), the board [~~commission~~] may increase or decrease the amount of a fee established under the applicable subsection.

SUBPART H. MISCELLANEOUS PROVISIONS

SECTION 8.2H.01. Section 520.001, Transportation Code, is amended to read as follows:

Sec. 520.001. DEFINITION. In this chapter, "department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SUBPART I. OPERATION OF BICYCLES, MOPEDS, AND PLAY VEHICLES

SECTION 8.2I.01. Section 551.302, Transportation Code, is amended to read as follows:

Sec. 551.302. REGISTRATION. The Texas Department of Motor Vehicles [~~Transportation~~] may adopt rules relating to the

registration and issuance of license plates to neighborhood electric vehicles.

SUBPART J. MOTOR VEHICLE SAFETY RESPONSIBILITY ACT

SECTION 8.2J.01. Section 601.023, Transportation Code, is amended to read as follows:

Sec. 601.023. PAYMENT OF STATUTORY FEES. The department may pay:

(1) a statutory fee required by the Texas Department of Motor Vehicles [~~Transportation~~] for a certified abstract or in connection with suspension of a vehicle registration; or

(2) a statutory fee payable to the comptroller for issuance of a certificate of deposit required by Section 601.122.

SECTION 8.2J.02. Section 601.451, Transportation Code, as added by Chapter 892 (S.B. 1670), Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

Sec. 601.451. DEFINITION. In this subchapter, "implementing agencies" means:

(1) the department;

(2) the Texas Department of Motor Vehicles [~~Transportation~~];

(3) the Texas Department of Insurance; and

(4) the Department of Information Resources.

SECTION 8.2J.03. Subchapter N, Chapter 601, Transportation Code, as added by Chapter 1325 (H.B. 3588), Acts of the 78th Legislature, Regular Session, 2003, is repealed.

SUBPART K. IDENTIFYING MARKINGS ON CERTAIN COMMERCIAL MOTOR VEHICLES

SECTION 8.2K.01. Section 642.002(d), Transportation Code, is amended to read as follows:

(d) The Texas Department of Motor Vehicles [~~Transportation~~] by rule may prescribe additional requirements regarding the form of the markings required by Subsection (a)(2) that are not inconsistent with that subsection.

SUBPART L. MOTOR CARRIER REGISTRATION

SECTION 8.2L.01. Section 643.001(1), Transportation Code, is amended to read as follows:

(1) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SUBPART M. SINGLE STATE REGISTRATION

SECTION 8.2M.01. Section 645.001, Transportation Code, is amended to read as follows:

Sec. 645.001. FEDERAL MOTOR CARRIER REGISTRATION. The Texas Department of Motor Vehicles [~~Transportation~~] may, to the fullest extent practicable, participate in a federal motor carrier registration program under the unified carrier registration system as defined by Section 643.001 or a [~~the~~] single state registration system established under federal law [~~49 U.S.C. Section 14504~~].

SUBPART N. MOTOR TRANSPORTATION BROKERS

SECTION 8.2N.01. Section 646.003(a), Transportation Code, is amended to read as follows:

(a) A person may not act as a motor transportation broker unless the person provides a bond to the Texas Department of Motor

Vehicles [~~Transportation~~].

SUBPART O. FOREIGN COMMERCIAL MOTOR TRANSPORTATION

SECTION 8.2O.01. Section 648.002, Transportation Code, is amended to read as follows:

Sec. 648.002. RULES. In addition to rules required by this chapter, the Texas Department of Motor Vehicles [~~Transportation~~], the Department of Public Safety, and the Texas Department of Insurance may adopt other rules to carry out this chapter.

SUBPART P. PRIVILEGED PARKING

SECTION 8.2P.01. Section 681.001(1), Transportation Code, is amended to read as follows:

(1) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SUBPART Q. ADMINISTRATIVE ADJUDICATION OF VEHICLE PARKING AND STOPPING OFFENSES

SECTION 8.2Q.01. Section 682.008, Transportation Code, is amended to read as follows:

Sec. 682.008. PRESUMPTIONS. In an administrative adjudication hearing under this chapter:

(1) it is presumed that the registered owner of the motor vehicle is the person who parked or stopped the vehicle at the time and place of the offense charged; and

(2) the Texas Department of Motor Vehicles' [~~Transportation's~~] computer-generated record of the registered vehicle owner is prima facie evidence of the contents of the record.

SUBPART R. ABANDONED MOTOR VEHICLES

SECTION 8.2R.01. Section 683.001(1), Transportation Code,

is amended to read as follows:

(1) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SUBPART S. CONTRACTS FOR ENFORCEMENT OF CERTAIN ARREST WARRANTS

SECTION 8.2S.01. Section 702.001(1), Transportation Code, is amended to read as follows:

(1) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SUBPART T. PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM

SECTION 8.2T.01. Section 707.001(2), Transportation Code, is amended to read as follows:

(2) "Owner of a motor vehicle" means the owner of a motor vehicle as shown on the motor vehicle registration records of the Texas Department of Motor Vehicles [~~Transportation~~] or the analogous department or agency of another state or country.

SECTION 8.2T.02. Section 707.011(b), Transportation Code, is amended to read as follows:

(b) Not later than the 30th day after the date the violation is alleged to have occurred, the designated department, agency, or office of the local authority or the entity with which the local authority contracts under Section 707.003(a)(1) shall mail the notice of violation to the owner at:

(1) the owner's address as shown on the registration records of the Texas Department of Motor Vehicles [~~Transportation~~]; or

(2) if the vehicle is registered in another state or country, the owner's address as shown on the motor vehicle

registration records of the department or agency of the other state or country analogous to the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 8.2T.03. Section 707.017, Transportation Code, is amended to read as follows:

Sec. 707.017. ENFORCEMENT. If the owner of a motor vehicle is delinquent in the payment of a civil penalty imposed under this chapter, the county assessor-collector or the Texas Department of Motor Vehicles [~~Transportation~~] may refuse to register a motor vehicle alleged to have been involved in the violation.

SUBPART U. SALE OR LEASE OF MOTOR VEHICLES

SECTION 8.2U.01. Section 2301.002(9), Occupations Code, is amended to read as follows:

(9) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 8.2U.02. Section 2301.002(33), Occupations Code, is repealed.

SUBPART V. AUTOMOBILE BURGLARY AND THEFT PREVENTION AUTHORITY

SECTION 8.2V.01. Section 1(3), Article 4413(37), Revised Statutes, is amended to read as follows:

(3) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 8.2V.02. Section 2, Article 4413(37), Revised Statutes, is amended to read as follows:

Sec. 2. The Automobile Burglary and Theft Prevention Authority is established in the Texas Department of Motor Vehicles [~~Transportation~~]. The authority is not an advisory body to the

Texas Department of Motor Vehicles [~~Transportation~~].

PART 3. CONFORMING AMENDMENTS PERTAINING TO TEXAS DEPARTMENT OF TRANSPORTATION IN OTHER CODES

SUBPART A. BUSINESS & COMMERCE CODE

SECTION 8.3A.01. Section 51.003(b), Business & Commerce Code, as effective April 1, 2009, is amended to read as follows:

(b) In this chapter, "business opportunity" does not include:

(1) the sale or lease of an established and ongoing business or enterprise that has actively conducted business before the sale or lease, whether composed of one or more than one component business or enterprise, if the sale or lease represents an isolated transaction or series of transactions involving a bona fide change of ownership or control of the business or enterprise or liquidation of the business or enterprise;

(2) a sale by a retailer of goods or services under a contract or other agreement to sell the inventory of one or more ongoing leased departments to a purchaser who is granted the right to sell the goods or services within or adjoining a retail business establishment as a department or division of the retail business establishment;

(3) a transaction that is:

(A) regulated by the Texas Department of Licensing and Regulation, the Texas Department of Insurance, the Texas Real Estate Commission, or the director of the Motor Vehicle Division of the Texas Department of Motor Vehicles [~~Transportation~~]; and

(B) engaged in by a person licensed by one of those agencies;

(4) a real estate syndication;

(5) a sale or lease to a business enterprise that also sells or leases products, equipment, or supplies or performs services:

(A) that are not supplied by the seller; and

(B) that the purchaser does not use with the seller's products, equipment, supplies, or services;

(6) the offer or sale of a franchise as described by the Petroleum Marketing Practices Act (15 U.S.C. Section 2801 et seq.) and its subsequent amendments;

(7) the offer or sale of a business opportunity if the seller:

(A) has a net worth of $25 million or more according to the seller's audited balance sheet as of a date not earlier than the 13th month before the date of the transaction; or

(B) is at least 80 percent owned by another person who:

(i) in writing unconditionally guarantees performance by the person offering the business opportunity plan; and

(ii) has a net worth of more than $25 million according to the person's most recent audited balance sheet as of a date not earlier than the 13th month before the date of the transaction; or

(8) an arrangement defined as a franchise by 16 C.F.R.

Section 436.2(a) and its subsequent amendments if:

(A) the franchisor complies in all material respects in this state with 16 C.F.R. Part 436 and each order or other action of the Federal Trade Commission; and

(B) before offering for sale or selling a franchise in this state, a person files with the secretary of state a notice containing:

(i) the name of the franchisor;

(ii) the name under which the franchisor intends to transact business; and

(iii) the franchisor's principal business address.

SECTION 8.3A.02. Section 105.004(b), Business & Commerce Code, as effective April 1, 2009, is amended to read as follows:

(b) The Texas Department of Motor Vehicles [~~Transportation~~] shall provide a notice that states the provisions of this chapter to each person with a disability who is issued:

(1) license plates under Section 504.201, Transportation Code; or

(2) a disabled parking placard under Section 681.004, Transportation Code.

SUBPART B. CODE OF CRIMINAL PROCEDURE

SECTION 8.3B.01. Section 1(1), Article 42.22, Code of Criminal Procedure, is amended to read as follows:

(1) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 8.3B.02. Article 59.04(c), Code of Criminal

Procedure, is amended to read as follows:

(c) If the property is a motor vehicle, and if there is reasonable cause to believe that the vehicle has been registered under the laws of this state, the attorney representing the state shall ask the Texas Department of Motor Vehicles [~~Transportation~~] to identify from its records the record owner of the vehicle and any interest holder. If the addresses of the owner and interest holder are not otherwise known, the attorney representing the state shall request citation be served on such persons at the address listed with the Texas Department of Motor Vehicles [~~Transportation~~]. If the citation issued to such address is returned unserved, the attorney representing the state shall cause a copy of the notice of the seizure and intended forfeiture to be posted at the courthouse door, to remain there for a period of not less than 30 days. If the owner or interest holder does not answer or appear after the notice has been so posted, the court shall enter a judgment by default as to the owner or interest holder, provided that the attorney representing the state files a written motion supported by affidavit setting forth the attempted service. An owner or interest holder whose interest is forfeited in this manner shall not be liable for court costs. If the person in possession of the vehicle at the time of the seizure is not the owner or the interest holder of the vehicle, notification shall be provided to the possessor in the same manner specified for notification to an owner or interest holder.

SUBPART C. FAMILY CODE

SECTION 8.3C.01. Section 157.316(b), Family Code, is

amended to read as follows:

(b) If a lien established under this subchapter attaches to a motor vehicle, the lien must be perfected in the manner provided by Chapter 501, Transportation Code, and the court or Title IV-D agency that rendered the order of child support shall include in the order a requirement that the obligor surrender to the court or Title IV-D agency evidence of the legal ownership of the motor vehicle against which the lien may attach. A lien against a motor vehicle under this subchapter is not perfected until the obligor's title to the vehicle has been surrendered to the court or Title IV-D agency and the Texas Department of Motor Vehicles [~~Transportation~~] has issued a subsequent title that discloses on its face the fact that the vehicle is subject to a child support lien under this subchapter.

SECTION 8.3C.02. Section 232.0022(a), Family Code, is amended to read as follows:

(a) The Texas Department of Motor Vehicles [~~Transportation~~] is the appropriate licensing authority for suspension or nonrenewal of a motor vehicle registration under this chapter.

SUBPART D. FINANCE CODE

SECTION 8.3D.01. Section 306.001(9), Finance Code, is amended to read as follows:

(9) "Qualified commercial loan":

(A) means:

(i) a commercial loan in which one or more persons as part of the same transaction lends, advances, borrows, or receives, or is obligated to lend or advance or entitled to

borrow or receive, money or credit with an aggregate value of:

(a) $3 million or more if the commercial loan is secured by real property; or

(b) $250,000 or more if the commercial loan is not secured by real property and, if the aggregate value of the commercial loan is less than $500,000, the loan documents contain a written certification from the borrower that:

(1) the borrower has been advised by the lender to seek the advice of an attorney and an accountant in connection with the commercial loan; and

(2) the borrower has had the opportunity to seek the advice of an attorney and accountant of the borrower's choice in connection with the commercial loan; and

(ii) a renewal or extension of a commercial loan described by Paragraph (A), regardless of the principal amount of the loan at the time of the renewal or extension; and

(B) does not include a commercial loan made for the purpose of financing a business licensed by the Motor Vehicle Board of the Texas Department of Motor Vehicles [~~Transportation~~] under Section 2301.251(a), Occupations Code.

SECTION 8.3D.02. Section 348.001(10-a), Finance Code, is amended to read as follows:

(10-a) "Towable recreation vehicle" means a nonmotorized vehicle that:

(A) was originally designed and manufactured primarily to provide temporary human habitation in conjunction with recreational, camping, or seasonal use;

(B) is titled and registered with the Texas Department of Motor Vehicles [~~Transportation~~] as a travel trailer through a county tax assessor-collector;

(C) is permanently built on a single chassis;

(D) contains at least one life support system; and

(E) is designed to be towable by a motor vehicle.

SECTION 8.3D.03. Section 348.518, Finance Code, is amended to read as follows:

Sec. 348.518. SHARING OF INFORMATION. To ensure consistent enforcement of law and minimization of regulatory burdens, the commissioner and the Texas Department of Motor Vehicles [~~Transportation~~] may share information, including criminal history information, relating to a person licensed under this chapter. Information otherwise confidential remains confidential after it is shared under this section.

SUBPART E. GOVERNMENT CODE

SECTION 8.3E.01. Section 411.122(d), Government Code, is amended to read as follows:

(d) The following state agencies are subject to this section:

(1) Texas Appraiser Licensing and Certification Board;

(2) Texas Board of Architectural Examiners;

(3) Texas Board of Chiropractic Examiners;

(4) State Board of Dental Examiners;

(5) Texas Board of Professional Engineers;

(6) Texas Funeral Service Commission;

(7) Texas Board of Professional Geoscientists;

(8) Department of State Health Services, except as provided by Section 411.110, and agencies attached to the department, including:

(A) Texas State Board of Examiners of Dietitians;

(B) Texas State Board of Examiners of Marriage and Family Therapists;

(C) Midwifery Board;

(D) Texas State Perfusionist Advisory Committee [~~Board of Examiners of Perfusionists~~];

(E) Texas State Board of Examiners of Professional Counselors;

(F) Texas State Board of Social Worker Examiners;

(G) State Board of Examiners for Speech-Language Pathology and Audiology;

(H) Advisory Board of Athletic Trainers;

(I) State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments;

(J) Texas Board of Licensure for Professional Medical Physicists; and

(K) Texas Board of Orthotics and Prosthetics;

(9) Texas Board of Professional Land Surveying;

(10) Texas Department of Licensing and Regulation, except as provided by Section 411.093;

(11) Texas Commission on Environmental Quality;

(12) Texas Board of Occupational Therapy Examiners;

(13) Texas Optometry Board;

(14) Texas State Board of Pharmacy;

(15) Texas Board of Physical Therapy Examiners;

(16) Texas State Board of Plumbing Examiners;

(17) Texas State Board of Podiatric Medical Examiners;

(18) Polygraph Examiners Board;

(19) Texas State Board of Examiners of Psychologists;

(20) Texas Real Estate Commission;

(21) Board of Tax Professional Examiners;

(22) Texas Department of Transportation;

(23) State Board of Veterinary Medical Examiners;

(24) Texas Department of Housing and Community Affairs;

(25) secretary of state;

(26) state fire marshal;

(27) Texas Education Agency; [~~and~~]

(28) Department of Agriculture; and

(29) Texas Department of Motor Vehicles.

SUBPART F. HEALTH AND SAFETY CODE

SECTION 8.3F.01. Section 382.209(e), Health and Safety Code, is amended to read as follows:

(e) A vehicle is not eligible to participate in a low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program established under this section unless:

(1) the vehicle is capable of being operated;

(2) the registration of the vehicle:

(A) is current; and

(B) reflects that the vehicle has been registered in the county implementing the program for the 12 months preceding the application for participation in the program;

(3) the commissioners court of the county administering the program determines that the vehicle meets the eligibility criteria adopted by the commission, the Texas Department of Motor Vehicles [~~Transportation~~], and the Public Safety Commission;

(4) if the vehicle is to be repaired, the repair is done by a repair facility recognized by the Department of Public Safety, which may be an independent or private entity licensed by the state; and

(5) if the vehicle is to be retired under this subsection and Section 382.213, the replacement vehicle is a qualifying motor vehicle.

SECTION 8.3F.02. Section 382.210(f), Health and Safety Code, is amended to read as follows:

(f) In this section, "total cost" means the total amount of money paid or to be paid for the purchase of a motor vehicle as set forth as "sales price" in the form entitled "Application for Texas Certificate of Title" promulgated by the Texas Department of Motor Vehicles [~~Transportation~~]. In a transaction that does not involve the use of that form, the term means an amount of money that is equivalent, or substantially equivalent, to the amount that would appear as "sales price" on the Application for Texas Certificate of Title if that form were involved.

SUBPART G. HUMAN RESOURCES CODE

SECTION 8.3G.01. Section 22.041, Human Resources Code, is amended to read as follows:

Sec. 22.041. THIRD-PARTY INFORMATION. Notwithstanding any other provision of this code, the department may use information obtained from a third party to verify the assets and resources of a person for purposes of determining the person's eligibility and need for medical assistance, financial assistance, or nutritional assistance. Third-party information includes information obtained from:

(1) a consumer reporting agency, as defined by Section 20.01, Business & Commerce Code;

(2) an appraisal district; or

(3) the Texas Department of Motor Vehicles [~~Transportation's~~] vehicle registration record database.

SECTION 8.3G.02. Section 32.026(g), Human Resources Code, is amended to read as follows:

(g) Notwithstanding any other provision of this code, the department may use information obtained from a third party to verify the assets and resources of a person for purposes of determining the person's eligibility and need for medical assistance. Third-party information includes information obtained from:

(1) a consumer reporting agency, as defined by Section 20.01, Business & Commerce Code;

(2) an appraisal district; or

(3) the Texas Department of Motor Vehicles

[~~Transportation's~~] vehicle registration record database.

SUBPART H. LOCAL GOVERNMENT CODE

SECTION 8.3H.01. Section 130.006, Local Government Code, is amended to read as follows:

Sec. 130.006. PROCEDURES FOR COLLECTION OF DISHONORED CHECKS AND INVOICES. A county tax assessor-collector may establish procedures for the collection of dishonored checks and credit card invoices. The procedures may include:

(1) official notification to the maker that the check or invoice has not been honored and that the receipt, registration, certificate, or other instrument issued on the receipt of the check or invoice is not valid until payment of the fee or tax is made;

(2) notification of the sheriff or other law enforcement officers that a check or credit card invoice has not been honored and that the receipt, registration, certificate, or other instrument held by the maker is not valid; and

(3) notification to the Texas Department of Motor Vehicles [~~Transportation~~], the comptroller of public accounts, or the Department of Public Safety that the receipt, registration, certificate, or other instrument held by the maker is not valid.

SECTION 8.3H.02. Section 130.007, Local Government Code, is amended to read as follows:

Sec. 130.007. REMISSION TO STATE NOT REQUIRED; STATE ASSISTANCE IN COLLECTION. (a) If a fee or tax is required to be remitted to the comptroller or the Texas Department of Motor Vehicles [~~Transportation~~] and if payment was made to the county tax assessor-collector by a check that was not honored by the drawee

bank or by a credit card invoice that was not honored by the credit card issuer, the amount of the fee or tax is not required to be remitted, but the assessor-collector shall notify the appropriate department of:

(1) the amount of the fee or tax;

(2) the type of fee or tax involved; and

(3) the name and address of the maker.

(b) The Texas Department of Motor Vehicles [~~Transportation~~] and the comptroller shall assist the county tax assessor-collector in collecting the fee or tax and may cancel or revoke any receipt, registration, certificate, or other instrument issued in the name of the state conditioned on the payment of the fee or tax.

SECTION 8.3H.03. Section 130.008, Local Government Code, is amended to read as follows:

Sec. 130.008. LIABILITY OF TAX COLLECTOR FOR VIOLATIONS OF SUBCHAPTER. If the comptroller or the Texas Department of Motor Vehicles [~~Transportation~~] determines that the county tax assessor-collector has accepted payment for fees and taxes to be remitted to that department in violation of Section 130.004 or that more than two percent of the fees and taxes to be received from the assessor-collector are not remitted because of the acceptance of checks that are not honored by the drawee bank or of credit card invoices that are not honored by the credit card issuer, the department may notify the assessor-collector that the assessor-collector may not accept a check or credit card invoice for the payment of any fee or tax to be remitted to that department. A county tax assessor-collector who accepts a check or credit card

invoice for the payment of a fee or tax, after notice that the assessor-collector may not receive a check or credit card invoice for the payment of fees or taxes to be remitted to a department, is liable to the state for the amount of the check or credit card invoice accepted.

SECTION 8.3H.04. Section 130.009, Local Government Code, is amended to read as follows:

Sec. 130.009. STATE RULES. The comptroller and the Texas Department of Motor Vehicles [~~Transportation~~] may make rules concerning the acceptance of checks or credit card invoices by a county tax assessor-collector and for the collection of dishonored checks or credit card invoices.

SUBPART I. OCCUPATIONS CODE

SECTION 8.3I.01. Section 554.009(c), Occupations Code, is amended to read as follows:

(c) The board may register a vehicle with the Texas Department of Motor Vehicles [~~Transportation~~] in an alias name only for investigative personnel.

SECTION 8.3I.03. Sections 2301.005(a) and (b), Occupations Code, are amended to read as follows:

(a) A reference in law, including a rule, to the Texas Motor Vehicle Commission or to the board means [~~the director, except that a reference to~~] the board of the Texas Department of Motor Vehicles [~~means the commission if it is related to the adoption of rules~~].

(b) A reference in law, including a rule, to the executive director of the Texas Motor Vehicle Commission means the executive director of the Texas Department of Motor Vehicles.

SECTION 8.3I.04. Sections 2302.001(2) and (3), Occupations Code, are amended to read as follows:

(2) "Board" [~~"Commission"~~] means the board of the Texas Department of Motor Vehicles [~~Transportation Commission~~].

(3) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 8.3I.05. Section 2302.0015(b), Occupations Code, is amended to read as follows:

(b) For the purpose of enforcing or administering this chapter or Chapter 501 or 502, Transportation Code, a member of the board [~~commission~~], an employee or agent of the board [~~commission~~] or department, a member of the Public Safety Commission, an officer of the Department of Public Safety, or a peace officer may at a reasonable time:

(1) enter the premises of a business regulated under one of those chapters; and

(2) inspect or copy any document, record, vehicle, part, or other item regulated under one of those chapters.

SECTION 8.3I.06. The heading to Subchapter B, Chapter 2302, Occupations Code, is amended to read as follows:

SUBCHAPTER B. BOARD [~~COMMISSION~~] POWERS AND DUTIES

SECTION 8.3I.07. Sections 2302.051, 2302.052, and 2302.053, Occupations Code, are amended to read as follows:

Sec. 2302.051. RULES AND ENFORCEMENT POWERS. The board [~~commission~~] shall adopt rules as necessary to administer this chapter and may take other action as necessary to enforce this chapter.

Sec. 2302.052. DUTY TO SET FEES. The board [~~commission~~] shall set application fees, license fees, renewal fees, and other fees as required to implement this chapter. The board [~~commission~~] shall set the fees in amounts reasonable and necessary to implement and enforce this chapter.

Sec. 2302.053. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The board [~~commission~~] may not adopt a rule under Section 2302.051 restricting advertising or competitive bidding by a person who holds a license issued under this chapter except to prohibit false, misleading, or deceptive practices by the person.

(b) The board [~~commission~~] may not include in its rules to prohibit false, misleading, or deceptive practices a rule that:

(1) restricts the use of any advertising medium;

(2) restricts the person's personal appearance or use of the person's voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person; or

(4) restricts the use of a trade name in advertising by the person.

SECTION 8.3I.08. Section 2302.108(b), Occupations Code, is amended to read as follows:

(b) The board [~~commission~~] by rule shall establish the grounds for denial, suspension, revocation, or reinstatement of a license issued under this chapter and the procedures for disciplinary action. A rule adopted under this subsection may not conflict with a rule adopted by the State Office of Administrative

Hearings.

SECTION 8.3I.09. Section 2302.204, Occupations Code, is amended to read as follows:

Sec. 2302.204. CASUAL SALES. This chapter does not apply to a person who purchases fewer than three nonrepairable motor vehicles or salvage motor vehicles from a salvage vehicle dealer, an insurance company or salvage pool operator in a casual sale at auction, except that:

(1) the board [~~commission~~] shall adopt rules as necessary to regulate casual sales by salvage vehicle dealers, insurance companies, or salvage pool operators and to enforce this section; and

(2) a salvage vehicle dealer, insurance company, or salvage pool operator who sells a motor vehicle in a casual sale shall comply with those rules and Subchapter E, Chapter 501, Transportation Code.

SUBPART J. PENAL CODE

SECTION 8.3J.01. Section 31.03(c), Penal Code, is amended to read as follows:

(c) For purposes of Subsection (b):

(1) evidence that the actor has previously participated in recent transactions other than, but similar to, that which the prosecution is based is admissible for the purpose of showing knowledge or intent and the issues of knowledge or intent are raised by the actor's plea of not guilty;

(2) the testimony of an accomplice shall be corroborated by proof that tends to connect the actor to the crime,

but the actor's knowledge or intent may be established by the uncorroborated testimony of the accomplice;

(3) an actor engaged in the business of buying and selling used or secondhand personal property, or lending money on the security of personal property deposited with the actor, is presumed to know upon receipt by the actor of stolen property (other than a motor vehicle subject to Chapter 501, Transportation Code) that the property has been previously stolen from another if the actor pays for or loans against the property $25 or more (or consideration of equivalent value) and the actor knowingly or recklessly:

(A) fails to record the name, address, and physical description or identification number of the seller or pledgor;

(B) fails to record a complete description of the property, including the serial number, if reasonably available, or other identifying characteristics; or

(C) fails to obtain a signed warranty from the seller or pledgor that the seller or pledgor has the right to possess the property. It is the express intent of this provision that the presumption arises unless the actor complies with each of the numbered requirements;

(4) for the purposes of Subdivision (3)(A), "identification number" means driver's license number, military identification number, identification certificate, or other official number capable of identifying an individual;

(5) stolen property does not lose its character as

stolen when recovered by any law enforcement agency;

(6) an actor engaged in the business of obtaining abandoned or wrecked motor vehicles or parts of an abandoned or wrecked motor vehicle for resale, disposal, scrap, repair, rebuilding, demolition, or other form of salvage is presumed to know on receipt by the actor of stolen property that the property has been previously stolen from another if the actor knowingly or recklessly:

(A) fails to maintain an accurate and legible inventory of each motor vehicle component part purchased by or delivered to the actor, including the date of purchase or delivery, the name, age, address, sex, and driver's license number of the seller or person making the delivery, the license plate number of the motor vehicle in which the part was delivered, a complete description of the part, and the vehicle identification number of the motor vehicle from which the part was removed, or in lieu of maintaining an inventory, fails to record the name and certificate of inventory number of the person who dismantled the motor vehicle from which the part was obtained;

(B) fails on receipt of a motor vehicle to obtain a certificate of authority, sales receipt, or transfer document as required by Chapter 683, Transportation Code, or a certificate of title showing that the motor vehicle is not subject to a lien or that all recorded liens on the motor vehicle have been released; or

(C) fails on receipt of a motor vehicle to immediately remove an unexpired license plate from the motor vehicle, to keep the plate in a secure and locked place, or to

maintain an inventory, on forms provided by the Texas Department of Motor Vehicles [~~Transportation~~], of license plates kept under this paragraph, including for each plate or set of plates the license plate number and the make, motor number, and vehicle identification number of the motor vehicle from which the plate was removed;

(7) an actor who purchases or receives a used or secondhand motor vehicle is presumed to know on receipt by the actor of the motor vehicle that the motor vehicle has been previously stolen from another if the actor knowingly or recklessly:

(A) fails to report to the Texas Department of Motor Vehicles [~~Transportation~~] the failure of the person who sold or delivered the motor vehicle to the actor to deliver to the actor a properly executed certificate of title to the motor vehicle at the time the motor vehicle was delivered; or

(B) fails to file with the county tax assessor-collector of the county in which the actor received the motor vehicle, not later than the 20th day after the date the actor received the motor vehicle, the registration license receipt and certificate of title or evidence of title delivered to the actor in accordance with Subchapter D, Chapter 520, Transportation Code, at the time the motor vehicle was delivered;

(8) an actor who purchases or receives from any source other than a licensed retailer or distributor of pesticides a restricted-use pesticide or a state-limited-use pesticide or a compound, mixture, or preparation containing a restricted-use or state-limited-use pesticide is presumed to know on receipt by the actor of the pesticide or compound, mixture, or preparation that

the pesticide or compound, mixture, or preparation has been previously stolen from another if the actor:

(A) fails to record the name, address, and physical description of the seller or pledgor;

(B) fails to record a complete description of the amount and type of pesticide or compound, mixture, or preparation purchased or received; and

(C) fails to obtain a signed warranty from the seller or pledgor that the seller or pledgor has the right to possess the property; and

(9) an actor who is subject to Section 409, Packers and Stockyards Act (7 U.S.C. Section 228b), that obtains livestock from a commission merchant by representing that the actor will make prompt payment is presumed to have induced the commission merchant's consent by deception if the actor fails to make full payment in accordance with Section 409, Packers and Stockyards Act (7 U.S.C. Section 228b).

SECTION 8.3J.02. Section 31.11(b), Penal Code, is amended to read as follows:

(b) It is an affirmative defense to prosecution under this section that the person was:

(1) the owner or acting with the effective consent of the owner of the property involved;

(2) a peace officer acting in the actual discharge of official duties; or

(3) acting with respect to a number assigned to a vehicle by the Texas Department of Transportation or the Texas

Department of Motor Vehicles, as applicable, and the person was:

(A) in the actual discharge of official duties as an employee or agent of the department; or

(B) in full compliance with the rules of the department as an applicant for an assigned number approved by the department.

SUBPART K. TAX CODE

SECTION 8.3K.01. Section 21.02(d), Tax Code, is amended to read as follows:

(d) A motor vehicle does not have taxable situs in a taxing unit under Subsection (a)(1) if, on January 1, the vehicle:

(1) has been located for less than 60 days at a place of business of a person who holds a wholesale motor vehicle auction general distinguishing number issued by the Texas Department of Motor Vehicles [~~Transportation~~] under Chapter 503, Transportation Code, for that place of business; and

(2) is offered for resale.

SECTION 8.3K.02. Section 22.04(d), Tax Code, is amended to read as follows:

(d) This section does not apply to a motor vehicle that on January 1 is located at a place of business of a person who holds a wholesale motor vehicle auction general distinguishing number issued by the Texas Department of Motor Vehicles [~~Transportation~~] under Chapter 503, Transportation Code, for that place of business, and that:

(1) has not acquired taxable situs under Section 21.02(a)(1) in a taxing unit that participates in the appraisal

district because the vehicle is described by Section 21.02(d);

(2) is offered for sale by a dealer who holds a dealer's general distinguishing number issued by the Texas Department of Motor Vehicles [~~Transportation~~] under Chapter 503, Transportation Code, and whose inventory of motor vehicles is subject to taxation in the manner provided by Sections 23.121 and 23.122; or

(3) is collateral possessed by a lienholder and offered for sale in foreclosure of a security interest.

SECTION 8.3K.03. Sections 23.121(a)(3), (11), and (14), Tax Code, are amended to read as follows:

(3) "Dealer" means a person who holds a dealer's general distinguishing number issued by the Texas Department of Motor Vehicles [~~Transportation~~] under the authority of Chapter 503, Transportation Code, or who is legally recognized as a motor vehicle dealer pursuant to the law of another state and who complies with the terms of Section 152.063(f). The term does not include:

(A) a person who holds a manufacturer's license issued under Chapter 2301, Occupations Code [~~by the Motor Vehicle Board of the Texas Department of Transportation~~];

(B) an entity that is owned or controlled by a person who holds a manufacturer's license issued under Chapter 2301, Occupations Code [~~by the Motor Vehicle Board of the Texas Department of Transportation~~]; or

(C) a dealer whose general distinguishing number issued by the Texas Department of Motor Vehicles [~~Transportation~~] under the authority of Chapter 503, Transportation Code, prohibits

the dealer from selling a vehicle to any person except a dealer.

(11) "Sales price" means the total amount of money paid or to be paid for the purchase of a motor vehicle as set forth as "sales price" in the form entitled "Application for Texas Certificate of Title" promulgated by the Texas Department of Motor Vehicles [~~Transportation~~]. In a transaction that does not involve the use of that form, the term means an amount of money that is equivalent, or substantially equivalent, to the amount that would appear as "sales price" on the Application for Texas Certificate of Title if that form were involved.

(14) "Towable recreational vehicle" means a nonmotorized vehicle that is designed for temporary human habitation for recreational, camping, or seasonal use and:

(A) is titled and registered with the Texas Department of Motor Vehicles [~~Transportation~~] through the office of the collector;

(B) is permanently built on a single chassis;

(C) contains one or more life support systems; and

(D) is designed to be towable by a motor vehicle.

SECTION 8.3K.04. Sections 23.121(f), (g), and (h), Tax Code, are amended to read as follows:

(f) The comptroller shall promulgate a form entitled Dealer's Motor Vehicle Inventory Declaration. Except as provided by Section 23.122(l) [~~of this code~~], not later than February 1 of each year, or, in the case of a dealer who was not in business on January 1, not later than 30 days after commencement of business,

each dealer shall file a declaration with the chief appraiser and file a copy with the collector. For purposes of this subsection, a dealer is presumed to have commenced business on the date of issuance to the dealer of a dealer's general distinguishing number as provided by Chapter 503, Transportation Code. Notwithstanding the presumption created by this subsection, a chief appraiser may, at his or her sole discretion, designate as the date on which a dealer commenced business a date other than the date of issuance to the dealer of a dealer's general distinguishing number. The declaration is sufficient to comply with this subsection if it sets forth the following information:

(1) the name and business address of each location at which the dealer owner conducts business;

(2) each of the dealer's general distinguishing numbers issued by the Texas Department of Motor Vehicles [~~Transportation~~];

(3) a statement that the dealer owner is the owner of a dealer's motor vehicle inventory; and

(4) the market value of the dealer's motor vehicle inventory for the current tax year as computed under Section 23.121(b) [~~of this code~~].

(g) Under the terms provided by this subsection, the chief appraiser may examine the books and records of the holder of a general distinguishing number issued by the Texas Department of Motor Vehicles [~~Transportation~~]. A request made under this subsection must be made in writing, delivered personally to the custodian of the records, at the location for which the general

distinguishing number has been issued, must provide a period not less than 15 days for the person to respond to the request, and must state that the person to whom it is addressed has the right to seek judicial relief from compliance with the request. In a request made under this section the chief appraiser may examine:

(1) the document issued by the Texas Department of Motor Vehicles [~~Transportation~~] showing the person's general distinguishing number;

(2) documentation appropriate to allow the chief appraiser to ascertain the applicability of this section and Section 23.122 [~~of this code~~] to the person;

(3) sales records to substantiate information set forth in the dealer's declaration filed by the person.

(h) If a dealer fails to file a declaration as required by this section, or if, on the declaration required by this section, a dealer reports the sale of fewer than five motor vehicles in the prior year, the chief appraiser shall report that fact to the Texas Department of Motor Vehicles [~~Transportation~~] and the department shall initiate termination proceedings. The chief appraiser shall include with the report a copy of a declaration, if any, indicating the sale by a dealer of fewer than five motor vehicles in the prior year. A report by a chief appraiser to the Texas Department of Motor Vehicles [~~Transportation~~] as provided by this subsection is prima facie grounds for the cancellation of the dealer's general distinguishing number under Section 503.038(a)(9), Transportation Code, or for refusal by the Texas Department of Motor Vehicles [~~Transportation~~] to renew the dealer's general distinguishing

number.

SECTION 8.3K.05. Section 23.123(c), Tax Code, is amended to read as follows:

(c) Information made confidential by this section may be disclosed:

(1) in a judicial or administrative proceeding pursuant to a lawful subpoena;

(2) to the person who filed the declaration or statement or to that person's representative authorized by the person in writing to receive the information;

(3) to the comptroller or an employee of the comptroller authorized by the comptroller to receive the information;

(4) to a collector or chief appraiser;

(5) to a district attorney, criminal district attorney or county attorney involved in the enforcement of a penalty imposed pursuant to Section 23.121 or Section 23.122 [~~of this code~~];

(6) for statistical purposes if in a form that does not identify specific property or a specific property owner;

(7) if and to the extent that the information is required for inclusion in a public document or record that the appraisal or collection office is required by law to prepare or maintain; or

(8) to the Texas Department of Motor Vehicles [~~Transportation~~] for use by that department in auditing compliance of its licensees with appropriate provisions of applicable law.

SECTION 8.3K.06. Section 23.124(a)(11), Tax Code, is

amended to read as follows:

(11) "Sales price" means the total amount of money paid or to be paid for the purchase of:

(A) a vessel, other than a trailer that is treated as a vessel, as set forth as "sales price" in the form entitled "Application for Texas Certificate of Number/Title for Boat/Seller, Donor or Trader's Affidavit" promulgated by the Parks and Wildlife Department;

(B) an outboard motor as set forth as "sales price" in the form entitled "Application for Texas Certificate of Title for an Outboard Motor/Seller, Donor or Trader's Affidavit" promulgated by the Parks and Wildlife Department; or

(C) a trailer that is treated as a vessel as set forth as "sales price" in the form entitled "Application for Texas Certificate of Title" promulgated by the Texas Department of Motor Vehicles [~~Transportation~~].

In a transaction involving a vessel, an outboard motor, or a trailer that is treated as a vessel that does not involve the use of one of these forms, the term means an amount of money that is equivalent, or substantially equivalent, to the amount that would appear as "sales price" on the Application for Texas Certificate of Number/Title for Boat/Seller, Donor or Trader's Affidavit, the Application for Texas Certificate of Title for an Outboard Motor/Seller, Donor or Trader's Affidavit, or the Application for Texas Certificate of Title if one of these forms were involved.

SECTION 8.3K.07. Section 113.011, Tax Code, is amended to read as follows:

Sec. 113.011. LIENS FILED WITH TEXAS DEPARTMENT OF MOTOR VEHICLES [~~TRANSPORTATION~~]. The comptroller shall furnish to the Texas Department of Motor Vehicles [~~Transportation~~] each release of a tax lien filed by the comptroller with that department.

SECTION 8.3K.08. Sections 152.0412(a) and (f), Tax Code, are amended to read as follows:

(a) In this section, "standard presumptive value" means the private-party transaction value of a motor vehicle, as determined by the Texas Department of Motor Vehicles [~~Transportation~~] based on an appropriate regional guidebook of a nationally recognized motor vehicle value guide service, or based on another motor vehicle guide publication that the department determines is appropriate if a private-party transaction value for the motor vehicle is not available from a regional guidebook described by this subsection.

(f) The Texas Department of Motor Vehicles [~~Transportation~~] shall maintain information on the standard presumptive values of motor vehicles as part of the department's registration and title system. The department shall update the information at least quarterly each calendar year and publish, electronically or otherwise, the updated information.

SECTION 8.3K.09. Section 152.042, Tax Code, is amended to read as follows:

Sec. 152.042. COLLECTION OF TAX ON METAL DEALER PLATES. A person required to pay the tax imposed by Section 152.027 shall pay the tax to the Texas Department of Motor Vehicles [~~Transportation~~], and the department may not issue the metal dealer's plates until the tax is paid.

SECTION 8.3K.10. Section 152.121(b), Tax Code, is amended to read as follows:

(b) Taxes on metal dealer plates collected by the Texas Department of Motor Vehicles [~~Transportation~~] shall be deposited by the department in the state treasury in the same manner as are other taxes collected under this chapter.

SECTION 8.3K.11. Section 162.001(52), Tax Code, is amended to read as follows:

(52) "Registered gross weight" means the total weight of the vehicle and carrying capacity shown on the registration certificate issued by the Texas Department of Motor Vehicles [~~Transportation~~].

ARTICLE 9. RAIL DIVISION

SECTION 9.01. Section 91.001, Transportation Code, is amended by adding Subdivision (3-a) to read as follows:

(3-a) "Division" means the rail division of the department.

SECTION 9.02. Subchapter A, Chapter 91, Transportation Code, is amended by adding Section 91.0041 to read as follows:

Sec. 91.0041. DUTIES OF RAIL DIVISION. In addition to any other duty imposed on the division, the division shall:

(1) assure that rail is an integral part of the department's transportation planning process;

(2) coordinate and oversee rail projects that are financed with money distributed by the department, including money from the Texas rail relocation and improvement fund;

(3) develop and plan for improved passenger and

freight rail facilities and services in this state; and

(4) coordinate the efforts of the department, the federal government, political subdivisions, and private entities to continue the development of rail facilities and services in this state.

SECTION 9.03. Subchapter H, Chapter 201, Transportation Code, is amended by adding Sections 201.6013 and 201.6014 to read as follows:

Sec. 201.6013. COORDINATION OF STATEWIDE PASSENGER RAIL SYSTEM. To facilitate the development and interconnectivity of rail systems in this state, the department shall coordinate activities regarding the planning, construction, operation, and maintenance of a statewide passenger rail system. The department shall coordinate with other entities involved with passenger rail systems, including governmental entities, private entities, and nonprofit corporations.

Sec. 201.6014. LONG-TERM PLAN FOR STATEWIDE PASSENGER RAIL SYSTEM. The department shall prepare and update annually a long-term plan for a statewide passenger rail system. Information contained in the plan must include:

(1) a description of existing and proposed passenger rail systems;

(2) information regarding the status of passenger rail systems under construction;

(3) an analysis of potential interconnectivity difficulties;

(4) ridership projections for proposed passenger rail

projects; and

(5) ridership statistics for existing passenger rail systems.

SECTION 9.04. (a) Section 1(1), Chapter 350 (S.B. 1101), Acts of the 71st Legislature, Regular Session, 1989 (Article 6419c, Vernon's Texas Civil Statutes), is amended to read as follows:

(1) "Department" [~~"Commission"~~] means the Texas Department of Transportation [~~Railroad Commission of Texas~~].

(b) Sections 2(a) and (b), Chapter 350 (S.B. 1101), Acts of the 71st Legislature, Regular Session, 1989 (Article 6419c, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) A railroad company that transports hazardous materials in or through the state shall file with the department [~~commission~~] a copy of each hazardous materials incident report that the company files with the federal Department of Transportation in accordance with 49 C.F.R. 171.16, not later than the 15th day after the date that the incident that forms the basis of the report is discovered.

(b) Not later than April 1 of each year, a railroad company that transports hazardous materials in or through the state shall provide to the department [~~commission~~]:

(1) a map depicting the location of each railroad main line and branch line that the company owns, leases, or operates in the state;

(2) a map delineating the geographical limits of the railroad company operating divisions or districts and the principal operating officer for the railroad company in each operating division or district;

(3) a primary and secondary telephone number for the railroad company dispatcher responsible for train operations in each operating division or district;

(4) a list of each type of hazardous material by hazard class and the quantity of the material transported over each railroad line owned, leased, or operated by the railroad company during the preceding year; and

(5) the name and address of the railroad company employee in charge of training persons to handle an incident related to hazardous materials.

(c) Section 3, Chapter 350 (S.B. 1101), Acts of the 71st Legislature, Regular Session, 1989 (Article 6419c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. DISTRIBUTION. (a) The department [~~commission~~] shall compile information submitted to the department [~~commission~~] under this Act for distribution to:

(1) local emergency management agencies located in jurisdictions containing reported railroad operations; and

(2) the metropolitan planning organizations for those jurisdictions.

(b) At least once each year the division of emergency management shall distribute the information compiled by the department [~~commission~~] to the appropriate officials for inclusion in local emergency management plans.

ARTICLE 10. ELECTRONIC SIGNS

SECTION 10.01. Chapter 544, Transportation Code, is amended by adding Section 544.013 to read as follows:

Sec. 544.013. CHANGEABLE MESSAGE SIGN SYSTEM. (a) In this section, "changeable message sign" means a sign that conforms to the manual and specifications adopted under Section 544.001. The term includes a dynamic message sign.

(b) The Texas Department of Transportation shall actively manage a system of changeable message signs located on highways under the jurisdiction of that department to mitigate traffic congestion by providing current information to the traveling public, including information about traffic incidents, weather conditions, road construction, and alternative routes.

ARTICLE 11. COUNTY TRAFFIC OFFICERS

SECTION 11.01. Section 701.006, Transportation Code, is amended to read as follows:

Sec. 701.006. [~~COMPLAINT; HEARING;~~] DISMISSAL. [~~(a) If a county traffic officer fails to perform the officer's duty to enforce the law, the district engineer of the Texas Department of Transportation district in which the officer operates may send a written, signed complaint to the commissioners court.~~

[~~(b) On receipt of the complaint, the commissioners court shall hold a hearing and summon the officer to appear before it.~~

[~~(c) If the commissioners court determines at the hearing that the officer has not performed the officer's duty, the commissioners court shall immediately discharge the officer and promptly employ another officer.~~

[~~(d)~~] The commissioners court on its own initiative, or on recommendation of the sheriff, may dismiss a county traffic officer if the officer is no longer needed or if the officer's service is

unsatisfactory.

SECTION 11.02. Section 701.002(b), Transportation Code, is repealed.

ARTICLE 12. ISSUANCE OF GENERAL OBLIGATION BONDS FOR HIGHWAY IMPROVEMENT PROJECTS

SECTION 12.01. Subchapter A, Chapter 222, Transportation Code, is amended by adding Section 222.005 to read as follows:

Sec. 222.005. ISSUANCE OF GENERAL OBLIGATION BONDS FOR HIGHWAY IMPROVEMENT PROJECTS. (a) In this section:

(1) "Bonds" means bonds, notes, and other public securities.

(2) "Credit agreement" has the meaning assigned by Section 1371.001, Government Code.

(3) "Improvement" includes acquisition of the highway, construction, reconstruction, and major maintenance, including any necessary design, and the acquisition of rights-of-way.

(b) The commission by order or resolution may issue general obligation bonds for the purposes provided in this section. The aggregate principal amount of the bonds that are issued may not exceed the amount specified by Section 49-p(a), Article III, Texas Constitution.

(c) The commission may enter into credit agreements relating to the bonds. A credit agreement entered into under this section may be secured by and payable from the same sources as the bonds.

(d) The bonds shall be executed in the form, on the terms,

and in the denominations, bear interest, and be issued in installments as prescribed by the commission, and must mature not later than 30 years after their dates of issuance, subject to any refundings or renewals. The bonds may be issued in multiple series and issues from time to time and may have the provisions the commission determines appropriate and in the interest of the state.

(e) The commission has all powers necessary or appropriate to carry out this section and to implement Section 49-p, Article III, Texas Constitution, including the powers granted to other bond-issuing governmental agencies and units and to nonprofit corporations by Chapters 1201, 1207, and 1371, Government Code.

(f) The bonds and the record of proceedings authorizing the bonds and any related credit agreements shall be submitted to the attorney general for approval as to their legality. If the attorney general finds that they will be issued in accordance with this section and other applicable law, the attorney general shall approve them, and, after payment by the purchasers of the obligations in accordance with the terms of sale and after execution and delivery of the related credit agreements, the obligations and related credit agreements are incontestable for any cause.

(g) Bonds may be issued for one or more of the following purposes:

(1) to pay all or part of the costs of highway improvement projects;

(2) to pay:

(A) the costs of administering projects

authorized under this section;

(B) the cost or expense of the issuance of the bonds; or

(C) all or part of a payment owed or to be owed under a credit agreement; and

(3) to provide money for deposit in the Texas Transportation Revolving Fund or similar revolving fund authorized by law, to be used for the purpose of making loans for highway improvement projects as provided by law.

(h) The proceeds from the issuance and sale of the bonds may not be expended or used for the purposes authorized under this section unless those proceeds have been appropriated by the legislature.

(i) The comptroller shall pay the principal of the bonds as they mature and the interest as it becomes payable and shall pay any cost related to the bonds that becomes due, including payments under credit agreements.

SECTION 12.02. This article does not make an appropriation. This article takes effect only if a specific appropriation for the implementation of the article is provided in a general appropriations act of the 81st Legislature.

SECTION 12.03. Except as provided by Section 12.02 of this article, this article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2009, except as provided by

Section 12.02 of this article.

ARTICLE 13. METROPOLITAN PLANNING ORGANIZATIONS

SECTION 13.01. Section 472.034, Transportation Code, is amended to read as follows:

Sec. 472.034. STANDARDS OF CONDUCT; ETHICS POLICY. (a) A policy board member or employee of a metropolitan planning organization may not:

(1) accept or solicit any gift, favor, or service that might reasonably tend to influence the member or employee in the discharge of official duties or that the member or employee knows or should know is being offered with the intent to influence the member's or employee's official conduct;

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

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

(4) make personal investments that could reasonably be expected to create a substantial conflict between the member's or employee's private interest and the public interest; or

(5) intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the member's or employee's official powers or performed the member's or employee's

official duties in favor of another.

(b) An employee of a metropolitan planning organization who violates Subsection (a) or an ethics policy adopted under Subsection (c) is subject to termination of the employee's employment or another employment-related sanction. Notwithstanding this subsection, a policy board member or employee of a metropolitan planning organization who violates Subsection (a) is subject to any applicable civil or criminal penalty if the violation also constitutes a violation of another statute or rule.

(c) Each policy board shall:

(1) adopt bylaws establishing an ethics policy for employees of a metropolitan planning organization and policy board members consistent with the standards prescribed by Subsection (a), including provisions to prevent a policy board member from having a conflict of interest in business before the metropolitan planning organization; and

(2) distribute a copy of the ethics policy to:

(A) each new employee not later than the third business day after the date the person begins employment with the agency; and

(B) each new policy board member not later than the third business day after the date the person qualifies for office.

(d) If a person with knowledge of a violation of an ethics policy established under Subsection (c) that also constitutes a criminal offense under another law of this state reports the violation to an appropriate prosecuting attorney who concludes that

there is reasonable basis to initiate an investigation, then, not later than the 60th day after the date a person notifies the prosecuting attorney under this subsection, the prosecuting attorney shall notify the Texas Ethics Commission of the status of the prosecuting attorney's investigation of the alleged violation. The Texas Ethics Commission shall, on the request of the prosecuting attorney, assist the prosecuting attorney in investigating the alleged violation.

(e) To the extent an employee of a metropolitan planning organization is subject to the ethics policy of another governmental entity and to the extent that policy conflicts with this section, the stricter policy prevails.

SECTION 13.02. Not later than January 1, 2010, each policy board of a metropolitan planning organization shall adopt bylaws establishing an ethics policy as required by Section 472.034(c), Transportation Code, as added by this article, and distribute a copy of the ethics policy to each policy board member and employee.

ARTICLE 14. MOTOR VEHICLE ACCIDENT REPORTS

SECTION 14.01. Section 550.065, Transportation Code, is amended by amending Subsections (a), (b), and (d) and adding Subsections (e), (f), and (g) to read as follows:

(a) This section applies only to information that is held by the department or another governmental entity and relates to a motor vehicle accident reported under this chapter or Section 601.004, including accident report information compiled under Section 201.805, as added by Chapter 1407 (S.B. 766), Acts of the 80th Legislature, Regular Session, 2007.

(b) Except as provided by Subsection (c) or (e), the information is privileged and for the confidential use of:

(1) the department; and

(2) an agency of the United States, this state, or a local government of this state that has use for the information for accident prevention purposes.

(d) The fee for a copy of the accident report [~~or accident information~~] is $6 [~~or the actual cost of the preparation of the copy, whichever is less~~]. The copy may be certified by the department or the governmental entity for an additional fee of $2. The department or the governmental entity may issue a certification that no report or information is on file for a fee of $6.

(e) In addition to the information required to be released under Subsection (c), the department may release:

(1) information relating to motor vehicle accidents that the department compiles under Section 201.805, as added by Chapter 1407 (S.B. 766), Acts of the 80th Legislature, Regular Session, 2007; or

(2) a vehicle identification number and specific accident information relating to that vehicle.

(f) The department:

(1) may not release under Subsection (e) information that:

(A) is personal information, as defined by Section 730.003; or

(B) would allow a person to satisfy the requirements of Subsection (c)(4) for the release of information

for a specific motor vehicle accident; and

(2) shall withhold or redact the following items of information:

(A) the first, middle, and last name of any person listed in an accident report, including a vehicle driver, occupant, owner, or lessee, a bicyclist, a pedestrian, or a property owner;

(B) the number of any driver's license, commercial driver's license, or personal identification certificate issued to any person listed in an accident report;

(C) the date of birth, other than the year, of any person listed in an accident report;

(D) the address, other than zip code, and telephone number of any person listed in an accident report;

(E) the license plate number of any vehicle listed in an accident report;

(F) the date of any accident, other than the year;

(G) the name of any insurance company listed as a provider of financial responsibility for a vehicle listed in an accident report;

(H) the number of any insurance policy issued by an insurance company listed as a provider of financial responsibility;

(I) the date the peace officer who investigated the accident was notified of the accident;

(J) the date the investigating peace officer

arrived at the accident site;

(K) the date the investigating officer's report was prepared;

(L) the badge number or identification number of the investigating officer;

(M) the date on which any person who died as a result of the accident died;

(N) the date of any commercial motor vehicle report; and

(O) the place where any person injured or killed in an accident was taken and the person or entity that provided the transportation.

(g) The amount that may be charged for information provided under Subsection (e) shall be calculated in the manner specified by Chapter 552, Government Code, for public information provided by a governmental body under that chapter.

ARTICLE 16. TEXAS TRANSPORTATION REVOLVING FUND

SECTION 16.01. Chapter 222, Transportation Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. TEXAS TRANSPORTATION REVOLVING FUND

Sec. 222.131. DEFINITIONS. In this subchapter:

(1) "Bonds" means bonds, notes, and other public securities.

(2) "Credit agreement" has the meaning assigned by Section 1371.001, Government Code.

(3) "Fund" means the Texas Transportation Revolving Fund.

(4) "Fund revenue bonds" means bonds issued under Section 222.135.

(5) "Highway improvement project" includes acquisition of the highway, construction, reconstruction, and major maintenance, including any necessary design, and the acquisition of rights-of-way.

(6) "Transit provider" has the meaning assigned by Section 370.003.

(7) "Transportation project" means a tolled or nontolled highway improvement project.

Sec. 222.132. CREATION OF FUND. The Texas Transportation Revolving Fund is created as a fund held in the Texas Treasury Safekeeping Trust Company.

Sec. 222.133. ADMINISTRATION OF FUND. (a) The commission, through the department, shall manage, invest, use, administer, and provide financial assistance from the fund as provided by this subchapter.

(b) The commission may create within the fund one or more accounts or subaccounts as determined appropriate and necessary by the commission.

(c) The commission shall prepare and file annually with the governor, the lieutenant governor, and the Legislative Budget Board a report providing information on the operation of the fund, including:

(1) the amounts and sources of money deposited in the fund during the year;

(2) investments and returns on investments of money in

the fund;

(3) loans made from the fund;

(4) other financial assistance provided from the fund;

(5) the status of any defaults on repayment of loans or other financial assistance provided from the fund; and

(6) the details of any transportation project for which financial assistance is received from the fund, including the identity of any highway directly affected by the project, and the degree to which the project is designed to reduce congestion, improve traffic safety, and enhance connectivity.

Sec. 222.134. SOURCES OF MONEY DEPOSITED IN FUND. The commission may deposit in the fund money derived from any source available to the commission, including:

(1) if appropriated by the legislature for that purpose:

(A) the proceeds of bonds issued under Section 222.003;

(B) the proceeds of bonds authorized by Section 49-p, Article III, Texas Constitution, if the law providing for the issuance of the bonds does not prohibit the deposit of the proceeds in the fund;

(C) money provided by the commission from the state highway fund;

(D) money provided by the commission from the Texas Mobility Fund that is in excess of the money required to be on deposit in the Texas Mobility Fund by the proceedings authorizing Texas Mobility Fund bonds and credit agreements; and

(E) other direct appropriations;

(2) repayments of principal and interest on loans made under Section 222.137;

(3) the proceeds from the sale of loans under Section 222.140;

(4) the proceeds from the sale of fund revenue bonds; and

(5) gifts and grants.

Sec. 222.135. FUND REVENUE BONDS. (a) The commission may issue, sell, and deliver fund revenue bonds for the purpose of providing money for the fund.

(b) Fund revenue bonds are special obligations of the commission payable from the repayment of loans from the fund and other money on deposit in the fund as the commission may designate.

(c) Fund revenue bonds do not constitute a debt of the state or a pledge of the faith and credit of the state.

(d) The commission by order or resolution may issue fund revenue bonds in the name and on behalf of the state and the department and may enter into credit agreements related to the bonds. The bonds may be issued in multiple series and issues from time to time and may be issued on the terms and with the provisions the commission determines appropriate and in the interests of the state.

(e) The commission has all powers necessary or appropriate to carry out this section, including the powers granted to other bond-issuing governmental agencies and units and to nonprofit corporations by Chapters 1201, 1207, and 1371, Government Code.

(f) Before the issuance of fund revenue bonds or credit agreements, the commission shall submit the record of proceedings of the commission authorizing the issuance, execution, and delivery of the bonds or credit agreement and any contract providing revenue or security to pay the bonds or credit agreement to the attorney general for review. If the attorney general finds that the proceedings authorizing a bond or credit agreement and any bonds authorized in the proceedings conform to the requirements of the Texas Constitution and this subchapter, the attorney general shall approve the proceedings and the bonds and deliver to the comptroller for registration a copy of the attorney general's legal opinion stating that approval and the record of proceedings. After approval, the bonds or credit agreement may be executed and delivered, exchanged, or refinanced from time to time in accordance with those authorizing proceedings.

(g) If the proceedings and any bonds authorized in the proceedings are approved by the attorney general and registered by the comptroller as provided above, the bonds or credit agreement, as applicable, or a contract providing revenue or security included in or executed and delivered according to the authorizing proceedings are incontestable in a court or other forum and are valid, binding, and enforceable according to their terms.

(h) The proceeds from the sale of fund revenue bonds may be used to finance other funds or accounts relating to the bonds or credit agreement, including a debt service reserve fund, and to pay the costs of issuance. All remaining proceeds received from the sale of the bonds shall be deposited in the fund and invested and

used as provided by this subchapter.

Sec. 222.136. INVESTMENT OF MONEY IN THE FUND. (a) Money in the fund may be invested as provided by Chapter 2256, Government Code, except that the proceeds of bonds deposited in the fund under Section 222.134 shall be subject to any limitations contained in the documents authorizing the issuance of the bonds.

(b) Income received from the investment of money in the fund shall be deposited in the fund, subject to requirements that may be imposed by the proceedings authorizing bonds issued to provide money for deposit in the fund that are necessary to protect the tax-exempt status of interest payable on the bonds in accordance with applicable law of the United States concerning federal income taxation of interest on the bonds. Investment income shall be deposited in an account or subaccount in the fund as determined by the department.

Sec. 222.137. USES OF MONEY IN THE FUND. (a) Except as otherwise provided by this section, the commission may use money held in the fund to provide financial assistance to a public entity, including the department, for the costs of a transportation project by:

(1) making loans, including through the purchase of obligations of the public entity;

(2) providing liquidity or credit enhancement, including through the agreement to loan to or purchase bonds, notes, or other obligations from a public entity;

(3) serving as a reserve fund established in connection with debt financing by the public entity;

(4) providing capitalized interest for debt financing by the public entity; or

(5) providing a guarantee of the payment of the costs of operations and maintenance of a transportation project.

(b) The proceeds of bonds authorized by Section 49-p, Article III, Texas Constitution, or issued under Section 222.003 may only be used to provide financial assistance for highway improvement projects, subject to any limitations provided by law.

(c) Money from the state highway fund may only be used for the purposes for which revenues are dedicated under Section 7-a, Article VIII, Texas Constitution.

(d) Money from the Texas Mobility Fund may only be used to provide financial assistance for state highway improvement projects, publicly owned toll roads, and public transportation projects, whether on or off of the state highway system, subject to any limitations provided by law.

(e) Money in the fund may be used to pay debt service on fund revenue bonds.

(f) The commission may require the payment of reasonable fees and other amounts by a public entity for all forms of financial assistance provided under this section.

(g) The department shall monitor the use of financial assistance provided to a public entity to ensure the financial assistance is used for purposes authorized by law and may audit the books and records of a public entity for this purpose.

Sec. 222.138. BORROWING FROM THE FUND BY PUBLIC ENTITY. (a) A public entity, including a municipality, county, district,

authority, agency, department, board, or commission, that is authorized by law to construct, maintain, or finance a transportation project may borrow money from the fund, including by direct loan or other financial assistance from the fund, and may enter into any agreement relating to receiving financial assistance from the fund.

(b) Money received by a public entity under this subchapter must be segregated from other funds under the control of the public entity and may only be used for purposes authorized by this subchapter.

(c) To provide for the repayment of a loan or other financial assistance, a public entity may:

(1) pledge revenues or income from any available source;

(2) pledge, levy, and collect any taxes, subject to any constitutional limitation; or

(3) pledge any combination of revenues, income, and taxes.

(d) This section is wholly sufficient authority for a public entity to borrow or otherwise obtain financial assistance from the fund as authorized by this subchapter and to pledge revenues, income, or taxes, or any combination of revenues, income, and taxes, to the repayment of a loan or other financial assistance.

Sec. 222.139. REPAYMENT TERMS; DEPOSIT OF REPAYMENTS. (a) For financial assistance that must be repaid, the commission shall determine the terms and conditions of the repayment, including the interest rates to be charged.

(b) The commission may require the entity receiving financial assistance that must be repaid to make charges, levy and collect taxes, pledge revenues, or otherwise take such action as may be necessary to provide for money in an amount sufficient for repayment according to the terms agreed on at the time the financial assistance is provided.

(c) For a tolled highway improvement project, the commission, in lieu of requiring the repayment of financial assistance and any interest thereon, may require that revenues from the project be shared between the entity and the department, and the entity and the department may enter into an agreement specifying the terms and conditions of the revenue sharing.

(d) The department shall deposit in the fund all amounts received from repayment of the financial assistance or as a share of revenues from a tolled highway improvement project.

Sec. 222.140. SALE OF LOANS. (a) As used in this section, "loan" includes any financial assistance that must be repaid or any portion of such assistance.

(b) The commission may sell any loans made from money in the fund and shall deposit the proceeds of the sale in the fund.

(c) For any loans to be sold under this section, the commission may submit to the attorney general for review and approval the related financial assistance agreement, which shall, for the purposes of Chapter 1202, Government Code, be considered to be a public security, along with the record of proceedings of the borrowing entity relating to the agreement. If the attorney general approves the agreement, it shall be incontestable in a

court or other forum and is valid, binding, and enforceable according to its terms as provided by Chapter 1202, Government Code.

(d) The commission must sell the loans using a competitive bidding process and at the price and under the terms and conditions that it determines to be reasonable.

(e) As part of the sales agreement with the purchaser of a loan, the commission may agree to perform the functions required to enforce the conditions and requirements stated in the loans, including the payment of debt service by the borrowing entity.

(f) The commission may exercise any powers necessary to carry out the authority granted by this section, including the authority to contract with any person to accomplish the purposes of this section.

(g) The commission shall not be liable for the repayment of, and may not repay, any loan sold under this section.

Sec. 222.141. WAIVER OF SOVEREIGN IMMUNITY. A public entity receiving financial assistance under this subchapter and the department may agree to waive sovereign immunity to suit for the purpose of adjudicating a claim to enforce any of their obligations brought by a party for breach of the terms of the financial assistance agreement.

Sec. 222.142. IMPLEMENTATION BY RULE. (a) The commission shall adopt rules to implement this subchapter, including rules:

(1) establishing eligibility and prioritization criteria for entities applying for financial assistance from the fund and for transportation projects that may receive financial

assistance from the fund;

(2) specifying the method for setting the terms and conditions for providing financial assistance from the fund and for the repayment of financial assistance from the fund; and

(3) establishing procedures for the sale of loans originated from amounts on deposit in the fund.

(b) The eligibility and prioritization criteria described in Subsection (a)(1) shall provide that financial assistance made available for the delivery of a transportation project by the department may not be in a larger amount or on more favorable terms than the financial assistance requested and previously offered for the delivery of that transportation project by a public entity, if any.

(c) The commission shall appoint a rules advisory committee to advise the department and the commission on the development of the commission's initial rules required by this section. The committee must include one or more members representing a local toll project entity, as defined in Section 228.0111. Chapter 2110, Government Code, does not apply to the committee. This subsection expires on the date the commission adopts initial rules under this section.

SECTION 16.02. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2009.

ARTICLE 17. USE OF STATE HIGHWAY FUND IN CONNECTION WITH CERTAIN TOLL FACILITIES

SECTION 17.01. Section 222.001, Transportation Code, is amended to read as follows:

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

(1) to improve the state highway system;

(2) to mitigate adverse environmental effects that result directly from construction or maintenance of a state highway by the department; or

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

(b) Notwithstanding Section 222.103, the department may not pledge or otherwise encumber money deposited in the state highway fund to:

(1) guarantee a loan obtained by a public or private entity for costs associated with a toll facility of the public or private entity; or

(2) insure bonds issued by a public or private entity for costs associated with a toll facility of the public or private entity.

SECTION 17.02. Section 222.001(b), Transportation Code, as

added by this article, applies only to an agreement to pledge or otherwise encumber money in the state highway fund that is entered into on or after the effective date of this Act, except that that section does not apply to an agreement to pledge or otherwise encumber money in the state highway fund that is associated with the following projects, regardless of whether the agreement is finalized on or after the effective date of this Act:

(1) the State Highway 161 project in Dallas County;

(2) the Southwest Parkway (State Highway 121) in Tarrant County from Interstate Highway 30 to Dirks Road/Altamesa Boulevard and the Chisholm Trail project from Dirks Road/Altamesa Boulevard to U.S. Highway 67 in the city of Cleburne;

(3) a project associated with the highway designated as the Trinity Parkway in the city of Dallas;

(4) the Grand Parkway project (State Highway 99);

(5) the Hidalgo Loop project in Hidalgo County from U.S. Highway 83 near the Pharr-Reynosa International Bridge to the U.S. Highway 83 Expressway in Penitas to U.S. Highway 281 north of Edinburg to U.S. Highway 83 west of Farm-to-Market Road 1423 to U.S. Highway 83 near the Pharr-Reynosa International Bridge;

(6) the U.S. Highway 290 project from east of U.S. Highway 183 to east of Farm-to-Market Road 734 in Travis County;

(7) the State Highway 71 East project from Riverside Drive east to east of State Highway 130 and including the interchange at State Highway 71 East/U.S. Highway 183 South in Travis County;

(8) the U.S. Highway 183 South project from Springdale

Road south to State Highway 71 East in Travis County;

(9) the Loop 1 added capacity project, comprised of the addition of a managed lane on Loop 1 from Parmer Lane to State Highway 45 South in Travis County;

(10) any transaction related to the acquisition by a regional mobility authority, a regional tollway authority, or a county acting under Chapter 284 of a toll project of the department all or a portion of which was existing and in operation prior to September 1, 2009;

(11) any transaction related to the assumption by a regional mobility authority, a regional tollway authority, or a county acting under Chapter 284 of the operations of a toll project of the department all or a portion of which was existing and in operation prior to September 1, 2009;

(12) the Loop 49 project from U.S. Highway 69 north of Lindale to State Highway 110 in Smith County; or

(13) the U.S. Highway 281 project in Bexar County from Loop 1604 to the Comal County line and including five direct connectors at the Loop 1604/U.S. Highway 281 interchange.

SECTION 17.03. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2009.

ARTICLE 18. USED AUTOMOTIVE PARTS RECYCLERS

SECTION 18.01. Section 2302.001(6), Occupations Code, is amended to read as follows:

(6) "Salvage vehicle agent" means a person who acquires, sells, or otherwise deals in nonrepairable or salvage motor vehicles [~~or used parts~~] in this state as directed by the salvage vehicle dealer under whose license the person operates. The term does not include a person who:

(A) is a licensed salvage vehicle dealer or a licensed used automotive parts recycler;

(B) is a partner, owner, or officer of a business entity that holds a salvage vehicle dealer license or a used automotive parts recycler license;

(C) is an employee of a licensed salvage vehicle dealer or a licensed used automotive parts recycler; or

(D) only transports salvage motor vehicles for a licensed salvage vehicle dealer or a licensed used automotive parts recycler.

SECTION 18.02. Section 2302.006(b), Occupations Code, is amended to read as follows:

(b) This chapter applies to a transaction in which a motor vehicle:

(1) is sold, transferred, released, or delivered to a metal recycler for the purpose of reuse or resale as a motor vehicle [~~or as a source of used parts~~]; and

(2) is used for that purpose.

SECTION 18.03. Subchapter A, Chapter 2302, Occupations Code, is amended by adding Section 2302.008 to read as follows:

Sec. 2302.008. APPLICABILITY OF CHAPTER TO USED AUTOMOTIVE PARTS RECYCLERS. This chapter does not apply to a used automotive

parts recycler licensed under Chapter 2309.

SECTION 18.04. Section 2302.103(b), Occupations Code, is amended to read as follows:

(b) An applicant may apply for a salvage vehicle dealer license with an endorsement in one or more of the following classifications:

(1) new automobile dealer;

(2) used automobile dealer;

(3) [~~used vehicle parts dealer;~~

[~~(4)~~] salvage pool operator;

(4) [~~(5)~~] salvage vehicle broker; or

(5) [~~(6)~~] salvage vehicle rebuilder.

SECTION 18.05. Section 2302.107(d), Occupations Code, is amended to read as follows:

(d) A salvage vehicle agent may acquire, sell, or otherwise deal in, nonrepairable or salvage motor vehicles [~~or used parts~~] as directed by the authorizing dealer.

SECTION 18.06. Section 2302.202, Occupations Code, is amended to read as follows:

Sec. 2302.202. RECORDS OF PURCHASES. A salvage vehicle dealer shall maintain a record of each salvage motor vehicle [~~and each used part~~] purchased or sold by the dealer.

SECTION 18.07. Subtitle A, Title 14, Occupations Code, is amended by adding Chapter 2309 to read as follows:

CHAPTER 2309. USED AUTOMOTIVE PARTS RECYCLERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2309.001. SHORT TITLE. This chapter may be cited as

the Texas Used Automotive Parts Recycling Act.

Sec. 2309.002. DEFINITIONS. In this chapter:

(1) "Insurance company," "metal recycler," "motor vehicle," "nonrepairable motor vehicle," "nonrepairable vehicle title," "salvage motor vehicle," "salvage vehicle title," and "salvage vehicle dealer" have the meanings assigned by Section 501.091, Transportation Code.

(2) "Commission" means the Texas Commission of Licensing and Regulation.

(3) "Department" means the Texas Department of Licensing and Regulation.

(4) "Executive director" means the executive director of the department.

(5) "Used automotive part" has the meaning assigned to "used part" by Section 501.091, Transportation Code.

(6) "Used automotive parts recycler" means a person licensed under this chapter to operate a used automotive parts recycling business.

(7) "Used automotive parts recycling" means the dismantling and reuse or resale of used automotive parts and the safe disposal of salvage motor vehicles or nonrepairable motor vehicles, including the resale of those vehicles.

Sec. 2309.003. APPLICABILITY OF CHAPTER TO METAL RECYCLERS. (a) Except as provided by Subsection (b), this chapter does not apply to a transaction to which a metal recycler is a party.

(b) This chapter applies to a transaction in which a motor vehicle:

(1) is sold, transferred, released, or delivered to a metal recycler as a source of used automotive parts; and

(2) is used as a source of used automotive parts.

Sec. 2309.004. APPLICABILITY OF CHAPTER TO SALVAGE VEHICLE DEALERS. (a) Except as provided by Subsection (b), this chapter does not apply to a transaction in which a salvage vehicle dealer is a party.

(b) This chapter applies to a salvage vehicle dealer who deals in used automotive parts as more than an incidental part of the salvage vehicle dealer's primary business.

Sec. 2309.005. APPLICABILITY OF CHAPTER TO INSURANCE COMPANIES. This chapter does not apply to an insurance company.

[Sections 2309.006-2309.050 reserved for expansion]

SUBCHAPTER B. ADVISORY BOARD

Sec. 2309.051. USED AUTOMOTIVE PARTS RECYCLING ADVISORY BOARD. (a) The advisory board consists of five members representing the used automotive parts industry in this state appointed by the presiding officer of the commission with the approval of the commission.

(b) The advisory board shall include members who represent used automotive parts businesses owned by domestic entities, as defined by Section 1.002, Business Organizations Code.

(c) The advisory board shall include one member who represents a used automotive parts business owned by a foreign entity, as defined by Section 1.002, Business Organizations Code.

(d) Appointments to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or

national origin of the appointee.

Sec. 2309.052. TERMS; VACANCIES. (a) Advisory board members serve terms of six years, with the terms of one or two members expiring on February 1 of each odd-numbered year.

(b) A member may not serve more than two full consecutive terms.

(c) If a vacancy occurs during a term, the presiding officer of the commission shall appoint a replacement who meets the qualifications of the vacated position to serve for the remainder of the term.

Sec. 2309.053. PRESIDING OFFICER. The presiding officer of the commission shall appoint one of the advisory board members to serve as presiding officer of the advisory board for a term of one year. The presiding officer of the advisory board may vote on any matter before the advisory board.

Sec. 2309.054. POWERS AND DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration and enforcement of this chapter, including licensing standards, continuing education requirements, and examination content, if applicable.

Sec. 2309.055. COMPENSATION; REIMBURSEMENT OF EXPENSES. Advisory board members may not receive compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing the functions of the advisory board, subject to the General Appropriations Act.

Sec. 2309.056. MEETINGS. The advisory board shall meet

twice annually and may meet at other times at the call of the presiding officer of the commission or the executive director.

[Sections 2309.057-2309.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION AND DEPARTMENT

Sec. 2309.101. GENERAL POWERS AND DUTIES. The executive director or commission, as appropriate, may take action as necessary to administer and enforce this chapter.

Sec. 2309.102. RULES. (a) The commission shall adopt rules for licensing used automotive parts recyclers and used automotive parts employees.

(b) The commission by rule shall adopt standards of conduct for license holders under this chapter.

Sec. 2309.103. EXAMINATION OF CRIMINAL CONVICTION. The department may conduct an examination of any criminal conviction or deferred adjudication of an applicant, including by obtaining any criminal history record information permitted by law.

Sec. 2309.104. FEES. The commission shall establish and collect reasonable and necessary fees in amounts sufficient to cover the costs of administering this chapter.

Sec. 2309.105. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The commission may not adopt a rule restricting advertising or competitive bidding by a person who holds a license issued under this chapter except to prohibit false, misleading, or deceptive practices by the person.

(b) The commission may not include in its rules to prohibit false, misleading, or deceptive practices a rule that:

(1) restricts the use of any advertising medium;

(2) restricts the person's personal appearance or use of the person's voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person; or

(4) restricts the use of a trade name in advertising by the person.

Sec. 2309.106. PERIODIC AND RISK-BASED INSPECTIONS. (a) The department shall inspect each used automotive parts recycling facility at least once every two years.

(b) The department may enter and inspect at any time during business hours:

(1) the place of business of any person regulated under this chapter; or

(2) any place in which the department has reasonable cause to believe that a license holder is in violation of this chapter or in violation of a rule or order of the commission or executive director.

(c) The department shall conduct additional inspections based on a schedule of risk-based inspections using the following criteria:

(1) the type and nature of the used automotive parts recycler;

(2) the inspection history;

(3) any history of complaints involving a used automotive parts recycler; and

(4) any other factor determined by the commission by rule.

(d) A used automotive parts recycler shall pay a fee for each risk-based inspection performed under this section. The commission by rule shall set the amount of the fee.

(e) In conducting an inspection under this section, the department may inspect a facility, a used automotive part, a business record, or any other place or thing reasonably required to enforce this chapter or a rule or order adopted under this chapter.

Sec. 2309.107. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter.

[Sections 2309.108-2309.150 reserved for expansion]

SUBCHAPTER D. LICENSE REQUIREMENTS

Sec. 2309.151. USED AUTOMOTIVE PARTS RECYCLER LICENSE REQUIRED. (a) Unless the person holds a used automotive parts recycler license issued under this chapter, a person may not own or operate a used automotive parts recycling business or sell used automotive parts.

(b) A used automotive parts recycler license:

(1) is valid only with respect to the person who applied for the license; and

(2) authorizes the license holder to operate a used automotive parts recycling business only at the one facility listed on the license.

Sec. 2309.152. GENERAL LICENSE APPLICATION REQUIREMENTS. An applicant for a used automotive parts recycler license under this chapter must submit to the department:

(1) a completed application on a form prescribed by the executive director;

(2) the required fees; and

(3) any other information required by commission rule.

Sec. 2309.153. LICENSE REQUIREMENTS. An applicant for a used automotive parts recycler license under this chapter must provide in a manner prescribed by the executive director:

(1) a federal tax identification number;

(2) proof of insurance in the amount prescribed by the executive director;

(3) proof of ownership or lease of the property where the applicant will operate a used automotive parts recycling facility; and

(4) proof of a storm water permit if the applicant is required by the Texas Commission on Environmental Quality to obtain a permit.

Sec. 2309.154. USED AUTOMOTIVE PARTS EMPLOYEE LICENSE REQUIRED. (a) A person employed by a used automotive parts recycler may not in the scope of the person's employment acquire a vehicle or used automotive parts and may not sell used automotive parts unless the person holds a used automotive parts employee license issued under this chapter.

(b) The commission by rule shall adopt requirements for the application for and issuance of a used automotive parts employee license under this chapter.

Sec. 2309.155. NONTRANSFERABILITY OF LICENSE. A license issued by the executive director is valid throughout this state and is not transferable.

Sec. 2309.156. LICENSE RENEWAL. (a) A license issued

under this chapter is valid for one year. The department may adopt a system under which licenses expire at different times during the year.

(b) The department shall notify the license holder at least 30 days before the date a license expires. The notice must be in writing and sent to the license holder's last known address according to the records of the department.

(c) The commission by rule shall adopt requirements to renew a license issued under this chapter.

[Sections 2309.157-2309.200 reserved for expansion]

SUBCHAPTER E. LOCAL REGULATION

Sec. 2309.201. APPLICABILITY OF CERTAIN MUNICIPAL ORDINANCES, LICENSES, AND PERMITS. (a) The requirements of this chapter apply in addition to the requirements of any applicable municipal ordinance relating to the regulation of a person who deals in nonrepairable or salvage motor vehicles or used automotive parts.

(b) This chapter does not prohibit the enforcement of an applicable municipal license or permit requirement that is related to an activity regulated under this chapter.

[Sections 2309.202-2309.250 reserved for expansion]

SUBCHAPTER F. ENFORCEMENT

Sec. 2309.251. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a license under this chapter, if the person violates:

(1) this chapter or a rule adopted under this chapter;

or

(2) a rule or order of the executive director or commission.

(b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing.

Sec. 2309.252. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety.

(b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.

Sec. 2309.253. SANCTIONS. The department may impose sanctions as provided by Section 51.353.

Sec. 2309.254. CRIMINAL PENALTY; LICENSING. (a) A person commits an offense if the person:

(1) violates the licensing requirements of this chapter;

(2) deals in used parts without a license required by this chapter; or

(3) employs an individual who does not hold the appropriate license required by this chapter.

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

[Sections 2309.255-2309.300 reserved for expansion]

SUBCHAPTER G. CONDUCTING BUSINESS

Sec. 2309.301. DUTIES ON ACQUISITION OF SALVAGE MOTOR VEHICLE. (a) A used automotive parts recycler who acquires ownership of a salvage motor vehicle shall obtain a properly assigned title from the previous owner of the vehicle.

(b) A used automotive parts recycler who acquires ownership of a motor vehicle, nonrepairable motor vehicle, or salvage motor vehicle for the purpose of dismantling, scrapping, or destroying the motor vehicle, shall, before the 61st day after the date of acquiring the motor vehicle, submit to the Texas Department of Motor Vehicles a report stating that the motor vehicle will be dismantled, scrapped, or destroyed. The recycler shall:

(1) submit the report on a form prescribed by the Texas Department of Motor Vehicles; and

(2) submit with the report a properly assigned manufacturer's certificate of origin, regular certificate of title, nonrepairable vehicle title, salvage vehicle title, other ownership document, or comparable out-of-state ownership document for the motor vehicle.

(c) After receiving the report and title or document, the Texas Department of Motor Vehicles shall issue the used automotive parts recycler a receipt for the manufacturer's certificate of origin, regular certificate of title, nonrepairable vehicle title, salvage vehicle title, other ownership document, or comparable out-of-state ownership document.

(d) The recycler shall comply with Subchapter E, Chapter 501, Transportation Code.

Sec. 2309.302. RECORDS OF PURCHASES. A used automotive parts recycler shall maintain a record of each motor vehicle, salvage motor vehicle, nonrepairable motor vehicle, and used automotive part purchased.

Sec. 2309.303. REGISTRATION OF NEW BUSINESS LOCATION. Before moving a place of business, a used automotive parts recycler must notify the department of the new location. The used automotive parts recycler shall provide a storm water permit for the location if a permit is required by the Texas Commission on Environmental Quality.

[Sections 2309.304-2309.350 reserved for expansion]

SUBCHAPTER H. ADDITIONAL DUTIES OF USED AUTOMOTIVE PARTS RECYCLER IN CONNECTION WITH MOTOR VEHICLE COMPONENT PARTS

Sec. 2309.351. DEFINITIONS. In this subchapter:

(1) "Component part" means a major component part as defined by Section 501.091, Transportation Code, or a minor component part.

(2) "Interior component part" means a motor vehicle's seat or radio.

(3) "Minor component part" means an interior component part, a special accessory part, or a motor vehicle part that displays or should display at least one of the following:

(A) a federal safety certificate;

(B) a motor number;

(C) a serial number or a derivative; or

(D) a manufacturer's permanent vehicle identification number or a derivative.

(4) "Special accessory part" means a motor vehicle's tire, wheel, tailgate, or removable glass top.

Sec. 2309.352. REMOVAL OF LICENSE PLATES. Immediately on receipt of a motor vehicle, a used automotive parts recycler shall:

(1) remove any unexpired license plates from the vehicle; and

(2) place the license plates in a secure place until destroyed by the used automotive parts recycler.

Sec. 2309.353. RECEIPT OF MOTOR VEHICLE. A used automotive parts recycler may not take delivery of a motor vehicle unless the recycler first obtains:

(1) a certificate of authority to dispose of the vehicle, a sales receipt, or a transfer document for the vehicle issued under Chapter 683, Transportation Code; or

(2) a certificate of title showing that there are no liens on the vehicle or that all recorded liens have been released.

Sec. 2309.354. RECORD OF PURCHASE; INVENTORY OF PARTS. (a) A used automotive parts recycler shall keep an accurate and legible inventory of each used component part purchased by or delivered to the recycler. The inventory must contain a record of each part that includes:

(1) the date of purchase or delivery;

(2) the driver's license number of the seller and a legible photocopy of the seller's driver's license;

(3) the license plate number of the motor vehicle in which the part was delivered;

(4) a complete description of the part and, if

applicable, the make, model, color, and size of the part; and

(5) the vehicle identification number of the motor vehicle from which the part was removed.

(b) As an alternative to the information required by Subsection (a), a used automotive parts recycler may record:

(1) the name of the person who sold the part or the motor vehicle from which the part was obtained; and

(2) the Texas certificate of inventory number or the federal taxpayer identification number of the person.

(c) The department shall prescribe the form of the record required by Subsection (a) and shall make the form available to used automotive parts recyclers.

(d) This section does not apply to:

(1) an interior component part or special accessory part from a motor vehicle more than 10 years old; or

(2) a part delivered to a used automotive parts recycler by a commercial freight line, commercial carrier, or licensed used automotive parts recycler.

Sec. 2309.355. ASSIGNMENT OF INVENTORY NUMBER. (a) A used automotive parts recycler shall:

(1) assign a unique inventory number to each transaction in which the recycler purchases or takes delivery of a component part;

(2) attach that inventory number to each component part the recycler obtains in the transaction; and

(3) retain each component part in its original condition on the business premises of the recycler for at least

three calendar days, excluding Sundays, after the date the recycler obtains the part.

(b) An inventory number attached to a component part under Subsection (a) may not be removed while the part remains in the inventory of the used automotive parts recycler.

(c) This section does not apply to the purchase by a used automotive parts recycler of a nonoperational engine, transmission, or rear axle assembly from another used automotive parts recycler or an automotive-related business.

Sec. 2309.356. MAINTENANCE OF RECORDS. A used automotive parts recycler shall keep a record required under this subchapter on a form prescribed by the department or the Texas Department of Motor Vehicles. The recycler shall maintain copies of each record required under this subchapter until the first anniversary of the purchase date of the item for which the record is maintained.

Sec. 2309.357. SURRENDER OF CERTAIN DOCUMENTS OR LICENSE PLATES. (a) On demand, a used automotive parts recycler shall surrender to the Texas Department of Motor Vehicles for cancellation a certificate of title or authority, sales receipt or transfer document, license plate, or inventory list that the recycler is required to possess or maintain.

(b) The Texas Department of Motor Vehicles shall provide a signed receipt for a surrendered certificate of title.

Sec. 2309.358. RESALE OF SALVAGE MOTOR VEHICLES OR NONREPAIRABLE MOTOR VEHICLES. (a) A used automotive parts recycler may sell salvage or nonrepairable vehicles only at:

(1) a used automotive parts recycling facility;

(2) a salvage pool operator's facility; or

(3) a metal recycling facility.

(b) Before reselling a salvage motor vehicle or nonrepairable motor vehicle at a used automotive recycling facility, a used automotive parts recycler must post notice on the vehicle of the type of title appropriate to the vehicle.

Sec. 2309.359. INSPECTION OF RECORDS. (a) A peace officer at any reasonable time may inspect a record required to be maintained under this subchapter, including an inventory record.

(b) On demand by a peace officer, a used automotive parts recycler shall provide to the officer a copy of a record required to be maintained under this subchapter.

(c) A peace officer may inspect the inventory on the premises of a used automotive parts recycler at any reasonable time to verify, check, or audit the records required to be maintained under this subchapter.

(d) A used automotive parts recycler or an employee of the recycler shall allow and may not interfere with a peace officer's inspection of the recycler's inventory, premises, or required inventory records.

[Sections 2309.360-2309.400 reserved for expansion]

SUBCHAPTER I. MOTOR VEHICLE SALVAGE YARDS IN CERTAIN COUNTIES

Sec. 2309.401. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a used automotive parts facility located in a county with a population of 2.8 million or more.

Sec. 2309.402. LIMITS ON OPERATION OF HEAVY MACHINERY. (a) A used automotive parts recycler may not operate heavy

machinery in a used automotive parts recycling facility between the hours of 7 p.m. of one day and 7 a.m. of the following day.

(b) This section does not apply to conduct necessary to a sale or purchase by the recycler.

SECTION 18.08. Section 501.091, Transportation Code, is amended by amending Subdivision (17) and adding Subdivision (20) to read as follows:

(17) "Salvage vehicle dealer" means a person engaged in this state in the business of acquiring, selling, [~~dismantling,~~] repairing, rebuilding, reconstructing, or otherwise dealing in nonrepairable motor vehicles, salvage motor vehicles, or, if incidental to a salvage motor vehicle dealer's primary business, used automotive parts. The term does not include a person who casually repairs, rebuilds, or reconstructs fewer than five [~~three~~] salvage motor vehicles in the same calendar year or, except as provided by Paragraph (C), a used automotive parts recycler. The term includes a person engaged in the business of:

(A) a salvage vehicle dealer, regardless of whether the person holds a license issued by the department to engage in that business;

(B) dealing in nonrepairable motor vehicles or salvage motor vehicles[~~, regardless of whether the person deals in used parts~~]; or

(C) a used automotive parts recycler if the sale of repaired, rebuilt, or reconstructed nonrepairable motor vehicles or salvage motor vehicles is more than an incidental part of the used automotive parts recycler's business [~~dealing in used~~

~~parts regardless of whether the person deals in nonrepairable motor vehicles or salvage motor vehicles~~].

(20) "Used parts dealer" and "used automotive parts recycler" have the meaning assigned to "used automotive parts recycler" by Section 2309.002, Occupations Code.

SECTION 18.09. Section 501.092(d), Transportation Code, is amended to read as follows:

(d) An insurance company may sell a motor vehicle to which this section applies, or assign a salvage vehicle title or a nonrepairable vehicle title for the motor vehicle, only to a salvage vehicle dealer, an out-of-state buyer, a buyer in a casual sale at auction, [~~or~~] a metal recycler, or a used automotive parts recycler. If the motor vehicle is not a salvage motor vehicle or a nonrepairable motor vehicle, the insurance company is not required to surrender the regular certificate of title for the vehicle or to be issued a salvage vehicle title or a nonrepairable vehicle title for the motor vehicle.

SECTION 18.10. Sections 501.095(a) and (b), Transportation Code, are amended to read as follows:

(a) If the department has not issued a nonrepairable vehicle title or salvage vehicle title for the motor vehicle and an out-of-state ownership document for the motor vehicle has not been issued by another state or jurisdiction, a business or governmental entity described by Subdivisions (1)-(3) may sell, transfer, or release a nonrepairable motor vehicle or salvage motor vehicle only to a person who is:

(1) a licensed salvage vehicle dealer, a used

automotive parts recycler under Chapter 2309, Occupations Code, or a metal recycler under Chapter 2302, Occupations Code;

(2) an insurance company that has paid a claim on the nonrepairable or salvage motor vehicle;

(3) a governmental entity; or

(4) an out-of-state buyer.

(b) A person, other than a salvage vehicle dealer, a used automotive parts recycler, or an insurance company licensed to do business in this state, who acquired ownership of a nonrepairable or salvage motor vehicle that has not been issued a nonrepairable vehicle title, salvage vehicle title, or a comparable ownership document issued by another state or jurisdiction shall, before selling the motor vehicle, surrender the properly assigned certificate of title for the motor vehicle to the department and apply to the department for:

(1) a nonrepairable vehicle title if the vehicle is a nonrepairable motor vehicle; or

(2) a salvage vehicle title if the vehicle is a salvage motor vehicle.

SECTION 18.11. Section 501.105, Transportation Code, is amended to read as follows:

Sec. 501.105. RETENTION OF RECORDS RELATING TO CERTAIN CASUAL SALES. Each licensed salvage vehicle dealer, used automotive parts recycler, or insurance company that sells a nonrepairable motor vehicle or a salvage motor vehicle at a casual sale shall keep on the business premises of the dealer or the insurance company a list of all casual sales made during the

preceding 36-month period that contains:

(1) the date of the sale;

(2) the name of the purchaser;

(3) the name of the jurisdiction that issued the identification document provided by the purchaser, as shown on the document; and

(4) the vehicle identification number.

SECTION 18.12. Section 2302.253, Occupations Code, is repealed.

SECTION 18.13. Not later than January 1, 2010, the Texas Commission of Licensing and Regulation shall adopt rules under Section 2309.102, Occupations Code, as added by this article.

SECTION 18.14. Sections 2309.151 and 2309.154, Occupations Code, as added by this article, and Subchapter F, Chapter 2309, Occupations Code, as added by this article, take effect September 1, 2010.

ARTICLE 19. TRANS-TEXAS CORRIDOR

SECTION 19.01. Section 11.11(j), Tax Code, is amended to read as follows:

(j) For purposes of this section, any portion of a facility owned by the Texas Department of Transportation that is [~~part of the Trans-Texas Corridor, is~~] a rail facility or system[~~,~~] or is a highway in the state highway system, and that is licensed or leased to a private entity by that department under Chapter 91 or[~~,~~] 223, [~~or 227,~~] Transportation Code, is public property used for a public purpose if the rail facility or system, highway, or facility is operated by the private entity to provide transportation or utility

services. Any part of a facility, rail facility or system, or state highway that is licensed or leased to a private entity for a commercial purpose is not exempt from taxation.

SECTION 19.02. Section 25.06(c), Tax Code, is amended to read as follows:

(c) This section does not apply to:

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

(2) a leasehold or other possessory interest granted by the Texas Department of Transportation in a facility owned by that department that is [~~part of the Trans-Texas Corridor, is~~] a rail facility or system[~~,~~] or is a highway in the state highway system.

SECTION 19.03. Section 25.07(c), Tax Code, is amended to read as follows:

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

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

(2) a leasehold or other possessory interest granted

by the Texas Department of Transportation in a facility owned by that department that is [~~part of the Trans-Texas Corridor, is~~] a rail facility or system[~~,~~] or is a highway in the state highway system.

SECTION 19.04. Sections 201.616(a) and (b), Transportation Code, are amended to read as follows:

(a) Not later than December 1 of each year, the department shall submit a report to the legislature that details:

(1) the expenditures made by the department in the preceding state fiscal year in connection with:

(A) the unified transportation program of the department;

(B) turnpike projects and toll roads of the department; and

(C) [~~the Trans-Texas Corridor,~~

[~~(D)~~] rail facilities described in Chapter 91; [~~and~~

[~~(E) non-highway facilities on the Trans-Texas Corridor if those expenditures are subject to Section 227.062(c),~~]

(2) the amount of bonds or other public securities issued for transportation projects; and

(3) the direction of money by the department to a regional mobility authority in this state.

(b) The report must break down information under Subsection (a)(1)(A) by program category and department district. The report must break down information under Subsections (a)(1)(B) and[~~,~~] (C)[~~, (D), and (E)~~] and Subsection (a)(3) by department district.

The report must break down information under Subsection (a)(2) by department district and type of project.

SECTION 19.05. Section 202.112(a), Transportation Code, is amended to read as follows:

(a) The commission may purchase an option to acquire property for possible use in or in connection with a transportation facility[~~, including a facility as defined by Section 227.001,~~] before a final decision has been made as to whether the transportation facility will be located on that property.

SECTION 19.06. Section 222.003(e), Transportation Code, is amended to read as follows:

(e) The proceeds of bonds and other public securities issued under this section may not be used for any purpose other than any costs related to the bonds and other public securities and the purposes for which revenues are dedicated under Section 7-a, Article VIII, Texas Constitution. [~~The proceeds of bonds and other public securities issued under this section may not be used for the construction of a state highway or other facility on the Trans-Texas Corridor. For purposes of this section, the "Trans-Texas Corridor" means the statewide system of multimodal facilities under the jurisdiction of the department that is designated by the commission, notwithstanding the name given to that corridor.~~]

SECTION 19.07. Section 223.201(a), Transportation Code, is amended to read as follows:

(a) Subject to Section 223.202, the department may enter into a comprehensive development agreement with a private entity to

design, develop, finance, construct, maintain, repair, operate, extend, or expand a:

(1) toll project;

(2) [~~facility or a combination of facilities on the Trans-Texas Corridor;~~

[~~(3)~~] state highway improvement project that includes both tolled and nontolled lanes and may include nontolled appurtenant facilities;

(3) [~~(4)~~] state highway improvement project in which the private entity has an interest in the project; or

(4) [~~(5)~~] state highway improvement project financed wholly or partly with the proceeds of private activity bonds, as defined by Section 141(a), Internal Revenue Code of 1986.

SECTION 19.08. Section 223.206(d), Transportation Code, is amended to read as follows:

(d) The department may not enter into a comprehensive development agreement with a private entity under this subchapter [~~or Section 227.023~~] that provides for the lease, license, or other use of rights-of-way or related property by the private entity for the purpose of constructing, operating, or maintaining an ancillary facility that is used for commercial purposes.

SECTION 19.09. Sections 223.208(c), (e), and (f), Transportation Code, are amended to read as follows:

(c) The department may enter into a comprehensive development agreement under this subchapter [~~or under Section 227.023(c)~~] with a private participant only if the project is identified in the department's unified transportation program or is

located on a transportation corridor identified in the statewide transportation plan.

(e) Notwithstanding anything in Section 201.112 or other law to the contrary, and subject to compliance with the dispute resolution procedures set out in the comprehensive development agreement, an obligation of the commission or the department under a comprehensive development agreement entered into under this subchapter [~~or Section 227.023(c)~~] to make or secure payments to a person because of the termination of the agreement, including the purchase of the interest of a private participant or other investor in a project, may be enforced by mandamus against the commission, the department, and the comptroller in a district court of Travis County, and the sovereign immunity of the state is waived for that purpose. The district courts of Travis County shall have exclusive jurisdiction and venue over and to determine and adjudicate all issues necessary to adjudicate any action brought under this subsection. The remedy provided by this subsection is in addition to any legal and equitable remedies that may be available to a party to a comprehensive development agreement.

(f) A comprehensive development agreement entered into under this subchapter [~~or Section 227.023(c)~~] and any obligations incurred, issued, or owed under the agreement does not constitute a state security under Chapter 1231, Government Code.

SECTION 19.10. Chapter 371, Transportation Code, as added by Chapters 103 (H.B. 570) and 258 (S.B. 11), Acts of the 80th Legislature, Regular Session, 2007, is reenacted, redesignated as Chapter 372, Transportation Code, and amended to read as follows:

CHAPTER 372 [~~371~~]. PROVISIONS APPLICABLE TO MORE THAN ONE TYPE OF TOLL PROJECT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 372.001 [~~371.001~~]. DEFINITIONS. In this chapter:

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

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

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

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

(A) the department under Chapter [~~227 or~~] 228;

(B) a regional tollway authority under Chapter 366;

(C) a regional mobility authority under Chapter 370; or

(D) a county under Chapter 284.

SUBCHAPTER B. TOLL PROJECT OPERATION

Sec. 372.051 [~~371.051~~]. USE OF MOTOR VEHICLE REGISTRATION OR LICENSE PLATE INFORMATION. (a) A toll project entity may not use motor vehicle registration or other information derived from a license plate on a vehicle using a toll project, including information obtained by the use of automated enforcement technology described by Section 228.058, for purposes other than those related to:

(1) toll collection and toll collection enforcement;

and

(2) law enforcement purposes on request by a law enforcement agency [~~, subject to Section 228.058(d)~~].

(b) If a toll project entity enters into an agreement with an entity in another state that involves the exchange of motor vehicle registration or license plate information for toll collection or toll collection enforcement purposes, the agreement must provide that the information may not be used for purposes other than those described in Subsection (a).

Sec. 372.052 [~~371.001~~]. VEHICLES USED BY NONPROFIT DISASTER RELIEF ORGANIZATIONS. [~~(a) In this section:~~

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

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

[~~(B) subject to the jurisdiction of the department.~~

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

[~~(A) the department under Chapter 227 or 228;~~

[~~(B) a regional tollway authority under Chapter 366;~~

[~~(C) a regional mobility authority under Chapter 370; or~~

[~~(D) a county under Chapter 284.~~

[~~(b)~~] A toll project entity may not require a vehicle registered under Section 502.203 to pay a toll for the use of a toll

project.

SECTION 19.11. Section 371.001(2), Transportation Code, as added by Chapter 264 (S.B. 792), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

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

(A) the department[~~, including under Chapter 227~~];

(B) a regional tollway authority under Chapter 366;

(C) a regional mobility authority under Chapter 370; or

(D) a county under Chapter 284.

SECTION 19.12. The following provisions of the Transportation Code are repealed:

(1) Section 201.618(e);

(2) Chapter 227;

(3) Section 284.0032;

(4) Section 366.305;

(5) Section 370.316; and

(6) Section 545.3531.

ARTICLE 20. URBAN TRANSPORTATION AUTHORITIES

SECTION 20.01. Chapter 451, Transportation Code, is amended by adding Subchapter R to read as follows:

SUBCHAPTER R. URBAN TRANSPORTATION AUTHORITIES

Sec. 451.901. DEFINITIONS. (a) In this subchapter:

(1) "Advanced transportation district" means a district created or operating under Subchapter O.

(2) "Authority" means a rapid transit authority created or operating under this chapter.

(3) "Board" means the governing body of an urban transportation authority, except as otherwise provided by this subchapter.

(4) "Comprehensive advanced transportation" means the design, construction, extension, expansion, improvement, reconstruction, alteration, acquisition, financing, and maintenance of mass transit, light rail, commuter rail, intercity municipal rail, freight rail, fixed guideways, traffic management systems, bus ways, bus lanes, technologically advanced bus transit vehicles and systems, bus rapid transit vehicles and systems, passenger amenities, transit centers, stations, parking facilities and payment mechanisms, sidewalks, bicycle lanes, electronic transit-related information, fare collection and operating systems, high occupancy vehicle lanes, bridges, traffic signal prioritization and coordination systems, monitoring systems, tracks and rail line, switching and signaling equipment, operating equipment, depots, locomotives, rolling stock, maintenance facilities, other real and personal property associated with a rail operation and transit-oriented development, and other comprehensive advanced transportation facilities, equipment, operations, comprehensive transportation systems, and services, including planning, feasibility studies, operations, and professional and other services in connection with those

facilities, equipment, operations, comprehensive transportation systems, and services.

(5) "Comprehensive mobility enhancement" means the design, construction, extension, expansion, improvement, reconstruction, alteration, acquisition, financing, and maintenance of:

(A) streets, roads, highways, high occupancy vehicle lanes, toll lanes, turnpike projects, pedestrian or bicycle facilities, bridges, grade separations, parking facilities and payment mechanisms, and infrastructure designed to improve mobility;

(B) traffic signal prioritization and street lighting;

(C) monitoring systems;

(D) other mobility enhancement facilities, equipment, systems, and services, including drainage improvements or drainage-related measures reasonable and necessary for the effective use of the transportation facility being constructed or maintained;

(E) an intermodal hub, air quality improvement initiative, and public utility facility; and

(F) a conveyance or acceptance of the exclusive rights to develop tolled infrastructure or other mobility-related assets, including concession fees.

(6) "Comprehensive transportation system" means a transportation project or a combination of transportation projects designated as a system by the board of an urban transportation

authority.

(7) "Construction costs" means the costs of acquisition, construction, reconstruction, improvement, extension, or expansion of a transportation project under this subchapter. The term includes a construction cost as defined by Chapter 370.

(8) "Costs" means finance costs and construction costs.

(9) "Debt" means a bond, certificate, long-term or short-term note, commercial paper, loan, certificate of participation, agreement with a local government, or any other obligation with a variable or fixed interest rate authorized by this chapter or the constitution or another law of this state. The term includes a credit agreement issued under Chapter 1371, Government Code.

(10) "Finance costs" means any fee or expense associated with the financing of a transportation project, including any debt service requirement, capitalized interest, reserve fund requirement, professional or administrative cost, or other cost incurred by or relating to the issuance of debt under this subchapter relating to the design, construction, extension, expansion, improvement, reconstruction, alteration, financing, acquisition, or maintenance of a transportation project.

(11) "Regional mobility authority" means a regional mobility authority created or operating under Chapter 370.

(12) "Revenue" means revenue available to an urban transportation authority under this subchapter, including any

source of taxes or revenue available under Chapter 370 or this chapter, including Subchapter O.

(13) "Transportation project" means a comprehensive advanced transportation project or a comprehensive mobility enhancement project.

(14) "Urban transportation authority" means an entity that has the powers of an authority, a regional mobility authority, and an advanced transportation district and is created under this subchapter.

(b) A word or phrase that is not defined in this subchapter but is defined in Subchapter O has the meaning in this subchapter that is assigned by that subchapter.

(c) A word or phrase that is not defined in this subchapter but is defined in Chapter 370 has the meaning in this subchapter that is assigned by that chapter.

Sec. 451.902. LIBERAL CONSTRUCTION. This subchapter shall be liberally construed to carry out its purposes. A provision of this subchapter that conflicts with Subchapter A or O or with Chapter 370 shall be construed to grant the broadest power.

Sec. 451.903. CREATION OF URBAN TRANSPORTATION AUTHORITY AUTHORIZED. (a) The governing body of an authority in which the principal municipality has a population of more than 700,000 and in the territory of which both an advanced transportation district and a regional mobility authority exist may approve and submit a petition to the governing bodies of the advanced transportation district and the regional mobility authority that seeks consent to the creation of an urban transportation authority under this

subchapter.

(b) Creation of an urban transportation authority under this subchapter may occur if:

(1) the governing body of the principal municipality in the authority and the commissioners court of each county in which the authority is located and in which a sales and use tax is collected under this chapter consent to the creation of the urban transportation authority;

(2) the governing body of the regional mobility authority consents to the creation of the urban transportation authority;

(3) the commissioners court of each county in which the regional mobility authority is located consents to the creation of the urban transportation authority;

(4) the governing body of the advanced transportation district consents to the creation of the urban transportation authority; and

(5) the commissioners court of each county and the governing body of the principal municipality in which the advanced transportation district is located consent to the creation of the urban transportation authority.

(c) The petition of the authority and the consents described in Subsection (b) must:

(1) approve the transfer of the assets, liabilities, rights, and obligations of each entity to the urban transportation authority; or

(2) make adequate provision therefor by the applicable

entity.

Sec. 451.904. EFFECT OF CREATION OF URBAN TRANSPORTATION AUTHORITY. (a) An urban transportation authority is created only after the occurrence of the actions required by Section 451.903. On the first day of the calendar month after the month in which the final action required by that section is taken, an urban transportation authority is considered to have been created. The urban transportation authority has the rights, powers, duties, and privileges granted to an authority under this chapter, to an urban transportation authority under this subchapter, to an advanced transportation district under Subchapter O, and to a regional mobility authority under Chapter 370, including the right to plan and develop transportation projects in any county in which the urban transportation authority is located.

(b) On the date the urban transportation authority is considered to have been created, the urban transportation authority becomes the successor entity to the authority, the advanced transportation district, and the regional mobility authority. On that date the authority, the advanced transportation district, and the regional mobility authority cease to exist.

(c) The urban transportation authority succeeds to and is obligated for all assets, liabilities, rights, and obligations not otherwise provided for of the authority, the advanced transportation district, and the regional mobility authority, on terms and conditions that, upon succession, are no less beneficial to employees than those extant immediately before the creation of the urban transportation authority, including continuation of all

rights, privileges, and benefits such as pension rights and benefits, wages, and working conditions, afforded to employees under an existing agreement.

Sec. 451.905. POWERS. (a) An urban transportation authority has the powers necessary or convenient to implement this subchapter or to effect a purpose of this subchapter.

(b) An urban transportation authority through its board may plan, study, evaluate, design, finance, acquire, construct, maintain, repair, and operate a transportation project, individually or as one or more comprehensive transportation systems.

(c) An urban transportation authority has:

(1) all of the rights, powers, duties, and privileges granted to an authority by this chapter;

(2) all of the rights, powers, duties, and privileges granted to a regional mobility authority by Chapter 370; and

(3) all of the rights, powers, duties, and privileges granted to an advanced transportation district by Subchapter O.

(d) A right, power, duty, or privilege of an urban transportation authority described in Subsection (c) may be exercised independently or in combination to effect the purposes of this subchapter. Except as otherwise provided by this subchapter, in the event of a conflict, the most liberal provision applies.

(e) In the manner and to the extent that an authority is authorized by this chapter, an urban transportation authority may develop and operate a transit system, set fares and other charges, and develop stations or terminal complexes for the use of the

transit system and related right-of-way.

(f) An urban transportation authority has any right, power, duty, or privilege granted by Chapter 370 to a regional mobility authority that relates to mass transit or a transit system and that is not in conflict with this subchapter.

(g) An urban transportation authority may impose any kind of tax or fee other than an ad valorem tax, including a sales and use tax. The applicable provisions of this chapter, including Subchapter O, and Chapter 370 apply to the imposition of a fee or tax by the urban transportation authority. If the legislature enacts provisions for local option transportation financing through a transportation finance authority or a centralized transportation finance entity, an urban transportation authority may serve as such an entity.

(h) An urban transportation authority may develop and operate a turnpike project. The turnpike project must be developed and operated under the provisions of Chapter 370, including any provision relating to the setting of toll rates.

(i) Unless otherwise provided by this subchapter, the board shall allocate the proceeds of the advanced transportation district sales and use tax in compliance with Subchapter O.

(j) Unless otherwise provided by this subchapter, an election relating to the sales and use tax or the boundaries of an advanced transportation district is governed by the provisions of Subchapter O relating to such an election of an advanced transportation district.

(k) An urban transportation authority may create a

transportation corporation or local government corporation under Chapter 431.

(l) An urban transportation authority is a toll project entity and a local toll project entity to the same extent as a regional mobility authority under the provisions of this code.

(m) In its selection and prioritization of transportation projects, the board shall consider the geographic location of other transportation projects funded by this state or the United States so as to foster geographic equity in the planning and development of the projects.

Sec. 451.906. NATURE OF URBAN TRANSPORTATION AUTHORITY. (a) An urban transportation authority:

(1) is a body politic and corporate and a political subdivision of this state;

(2) has perpetual succession; and

(3) exercises public and essential governmental functions.

(b) The exercise of a right, power, or privilege granted by this subchapter is for a public purpose and is a matter of public necessity and is, in all respects, for the benefit of the people of the territory in which an urban transportation authority operates and of the people of this state, for the increase of their commerce and prosperity, and for the improvement of their health, living conditions, and public safety.

(c) An urban transportation authority is a governmental unit under Chapter 101, Civil Practice and Remedies Code. The operations of the urban transportation authority are not

proprietary functions for any purpose.

(d) An urban transportation authority is:

(1) a public entity under Section 222.1045; and

(2) a governmental agency under Subchapter A, Chapter 271, Local Government Code.

(e) The property, revenue, and income of an urban transportation authority are exempt from state and local taxes.

Sec. 451.907. GOVERNANCE OF URBAN TRANSPORTATION AUTHORITY; INITIAL BOARD OF DIRECTORS. (a) An urban transportation authority is governed by a board of directors. The board consists of:

(1) five members appointed by the governing body of the principal municipality, with one member designated to represent the interests of the transportation disadvantaged;

(2) five members appointed by the commissioners court of the county in which the urban transportation authority is located, or if the urban transportation authority is located in more than one county, jointly appointed by the commissioners courts of those counties;

(3) two members appointed by a panel composed of the mayors of the municipalities, other than the principal municipality, that are inside the boundaries of the authority and contribute sales and use tax revenue to the authority; and

(4) one member appointed by the governor.

(a-1) The members appointed under Subsection (a) shall select by majority vote one member to serve as presiding officer of the board.

(b) On the creation of the urban transportation authority, the initial board of the urban transportation authority shall be appointed from among the memberships of the governing body of the authority, the governing body of the advanced transportation district, and the governing body of the regional mobility authority, as extant immediately before the urban transportation authority was created.

(c) The board is responsible for the management, operation, and control of the urban transportation authority and the property of the urban transportation authority.

(d) A provision of this chapter that is applicable to the governing body of an authority and relates to vacancies, term limitations, residency requirements, compensation, surety bonds, nepotism, financial disclosure, indemnification, insurance, or removal applies to the board.

(e) Board meetings and actions are governed by the provisions of this chapter that are applicable to the governing body of an authority. Those meetings and actions are not governed by Chapter 370.

(f) To be eligible to serve as a director, an individual:

(1) may be a representative of an entity that is also represented on a metropolitan planning organization in the region where the principal municipality is located; and

(2) may not be:

(A) an elected official;

(B) an officer or employee of the department;

(C) an employee of a county or a municipality,

including the principal municipality, that contributes sales and use tax revenue to the urban transportation authority; or

(D) a person who owns an interest in real property that will be acquired for a transportation project, if it is known at the time of the person's proposed appointment that the property will be acquired for the transportation project.

Sec. 451.908. PUBLIC ACCESS. An urban transportation authority shall:

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

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

Sec. 451.909. STRATEGIC PLANS AND ANNUAL REPORTS. (a) An urban transportation authority shall develop a strategic plan for its operations. Before December 31 of each even-numbered year, the urban transportation authority shall issue a plan that covers the succeeding five fiscal years of the urban transportation authority, beginning with the next odd-numbered fiscal year.

(b) Not later than March 31 of each year, an urban transportation authority shall file with each county in which the urban transportation authority is located, the principal municipality, and the panel composed of the mayors of the municipalities in the urban transportation authority that

contribute sales and use tax revenue to the authority, a written report on the urban transportation authority's activities that includes a description of anticipated issuances of debt during the next fiscal year, a description of the financial condition of the urban transportation authority, schedules for the development of approved projects, and the status of the urban transportation authority's performance under the most recent strategic plan.

(c) Notwithstanding Subsection (b), a failure to identify a debt issuance or a change in a project development schedule in a written report does not prevent the issuance of the debt or the change in the project development schedule, including the commencement of the operation of a project.

Sec. 451.910. ESTABLISHMENT OF COMPREHENSIVE TRANSPORTATION SYSTEM. (a) If the board determines that the mobility needs of the county or counties in which the urban transportation authority operates and of the surrounding region could be most efficiently and economically met by jointly operating two or more transportation projects as one operational and financial enterprise, the board may create one or more comprehensive transportation systems composed of those transportation projects.

(b) The board may:

(1) create more than one comprehensive transportation system; and

(2) combine two or more comprehensive transportation systems into a single comprehensive transportation system.

(c) An urban transportation authority may finance, acquire,

construct, cross-collateralize, and operate a comprehensive transportation system if the board determines that:

(1) the transportation projects could most efficiently and economically be acquired or constructed as part of the comprehensive transportation system; and

(2) the transportation projects will benefit the comprehensive transportation system.

Sec. 451.911. ISSUANCE OF DEBT. (a) An urban transportation authority, or an entity created by the urban transportation authority for the purposes of issuing debt, by resolution of the board or the governing body of the entity, as applicable, may authorize the issuance of debt payable solely from revenue.

(b) Debt, any portion of which is payable from taxes, may not be issued by an urban transportation authority unless the issuance is authorized by a majority of the votes cast at an election ordered and held for that purpose.

(c) Debt issued by an urban transportation authority is fully negotiable. An urban transportation authority may make the debt redeemable before maturity at the price and subject to the terms and conditions provided in the proceedings that authorized the issuance or in a related legal document.

(d) Debt issued by an urban transportation authority under this subchapter may be sold at a public or private sale as determined by the board to be most advantageous and may have a maturity of not longer than 50 years.

(e) Costs attributable to a transportation project that

were incurred before the issuance of debt to finance the transportation project may be reimbursed from the proceeds of debt that is subsequently issued.

Sec. 451.912. TRANSPORTATION PROJECT FINANCING. (a) An urban transportation authority may exercise the powers of a regional mobility authority, an authority, and an advanced transportation district and may issue debt or enter into other agreements or financial arrangements to pay all or part of the costs of a transportation project or to refund any debt previously issued for a transportation project.

(b) The powers described in Subsection (a) are cumulative and may be exercised by an urban transportation authority independently or in combination to develop, finance, operate, and pay the costs of a transportation project. Subject to other provisions of this subchapter, the urban transportation authority may pledge any revenue available to the urban transportation authority under this subchapter, separately or in combination, for the payment of a debt, agreement, or financial arrangement described by Subsection (a).

(c) As authorized by Chapter 370 in connection with a regional mobility authority, the department may provide for or contribute to the payment of the costs of a financial or engineering and traffic feasibility study for a transportation project.

Sec. 451.913. SALES AND USE TAX. (a) When an authority that collects a sales and use tax becomes part of an urban transportation authority:

(1) the sales and use tax remains subject to the

provisions of this chapter that relate to the sales and use tax of an authority; and

(2) any restriction, covenant, obligation, or pledge attributed to that sales and use tax remains in effect.

(b) When an advanced transportation district that collects a sales and use tax becomes part of an urban transportation authority:

(1) the sales and use tax remains subject to the provisions of Subchapter O that relate to the sales and use tax of an advanced transportation district; and

(2) any restriction, covenant, obligation, allocation, or pledge attributed to that sales and use tax remains in effect until the voters elect to increase, decrease, or otherwise alter the terms of the sales and use tax.

(c) The allocation of the proceeds of the sales and use tax adopted at the initial election of an advanced transportation district may not be altered unless a proposition for the reallocation is approved by a majority of the votes cast at an election ordered and held for that purpose under this subchapter.

(d) An urban transportation authority may order a subsequent advanced transportation district sales and use tax election to reallocate the proceeds of the tax or to increase or decrease the rate of the tax collected by the urban transportation authority. An election ordered under this section must be held for one or more transportation projects; the combined rate of all sales and use taxes imposed by the urban transportation authority and all other political subdivisions of this state may not exceed the

statutory sales and use tax cap in any location in the urban transportation authority; and the proceeds of the sales and use tax under a subsequent election may be pledged only for:

(1) transportation project purposes as determined by the board, including debt service requirements, capitalized interest, reserve fund requirements, credit agreements, administrative costs, or other debt-related costs incurred by or relating to the issuance of obligations by the urban transportation authority relating to the purchase, design, construction, extension, expansion, improvement, reconstruction, alteration, financing, and maintenance of an advanced transportation facility, equipment, operations, a comprehensive transportation system, and services, including feasibility studies, operations, and professional or other services in connection with the facility, equipment, operations, system, or services;

(2) transportation project purposes in the territory of the urban transportation authority as determined by the governing bodies of each participating unit in proportion to the amount of sales and use tax proceeds that were collected in that participating unit; or

(3) as a local match for, or the local share of, a state or federal grant for transportation project purposes in the territory of the urban transportation authority or in connection with the transfer of money by the department or another entity of this state or the United States under an agreement with a county or municipality or a local government corporation created by a county or municipality under Chapter 431, for transportation project

purposes in the territory of the urban transportation authority.

(e) At an election under this section, the ballot shall be prepared to permit voting for or against the proposition: "The imposition of a sales and use tax for comprehensive advanced transportation and comprehensive mobility enhancement in the (name of urban transportation authority), at the rate to be set by the governing body of the urban transportation authority."

(f) After a favorable subsequent election held under this subchapter, an allocation specified by Subchapter O ceases to be binding.

Sec. 451.914. USE OF FARE REVENUE. (a) All fare revenue generated by the mass transit operations of the urban transportation authority, other than fare revenue generated by a rail operation, must be dedicated exclusively to the support of mass transit operations.

(b) Fare revenue generated by a rail operation of the urban transportation authority may be used for any comprehensive advanced transportation or comprehensive mobility enhancement purpose.

Sec. 451.915. POWERS AND PROCEDURES OF URBAN TRANSPORTATION AUTHORITY IN ACQUIRING PROPERTY. An urban transportation authority has the same powers and may use the same procedures as a regional mobility authority operating under Chapter 370 in acquiring property.

Sec. 451.916. PUBLIC UTILITY FACILITIES. An urban transportation authority has the same powers and may use the same procedures as a regional mobility authority operating under Chapter 370 with regard to public utility facilities.

Sec. 451.917. TOLL COLLECTION AND VIOLATIONS. An urban transportation authority has the same powers and may use the same procedures as a regional mobility authority operating under Chapter 370 with regard to toll collections, transponders, enforcement, violations, and penalties.

Sec. 451.918. PROJECT DELIVERY. An urban transportation authority may procure, develop, finance, design, construct, maintain, or operate a transportation project using the rights, powers, duties, and privileges that are granted by Chapter 223, by Chapter 370 to a regional mobility authority, or by Subchapter H, Chapter 271, Local Government Code, including a right, power, duty, or privilege associated with:

(1) a construction manager agent;

(2) a construction manager-at-risk;

(3) use of design build;

(4) a pass-through agent; or

(5) a comprehensive development agreement.

Sec. 451.919. MUNICIPAL TRANSPORTATION REINVESTMENT ZONES. A municipality located in the territory served by an urban transportation authority may:

(1) designate a municipal transportation reinvestment zone under Section 222.106 to promote a transportation project under this subchapter; and

(2) use money deposited to the tax increment account for the reinvestment zone to pay the urban transportation authority for a portion of the costs of the transportation project.

ARTICLE 21. SALES AND LEASES OF MOTOR VEHICLES

SECTION 21.01. Section 2301.476, Occupations Code, is amended by adding Subsection (h-1) to read as follows:

(h-1) A person who on January 18, 2002, held both a converter's license to convert buses with a gross vehicle weight rating of 40,000 pounds or more and a franchised dealer's license to sell buses issued under this chapter may:

(1) regain and continue to hold both licenses; and

(2) operate as both a converter and franchised dealer of bus conversions with a gross vehicle weight rating of 40,000 pounds or more but of no other type of vehicle.

ARTICLE 22. HIGHWAY AND OVERPASS DESIGNATIONS

SECTION 22.01. Subchapter B, Chapter 225, Transportation Code, is amended by adding Section 225.081 to read as follows:

Sec. 225.081. BUDDY WEST MEMORIAL OVERPASS. (a) The structure on Loop 338 that passes over Interstate Highway 20 in Ector County is designated as the Buddy West Memorial Overpass.

(b) The department shall:

(1) design and construct markers indicating the highway number, the designation as the Buddy West Memorial Overpass, and any other appropriate information; and

(2) erect a marker at each end of the structure and at appropriate intermediate sites along the structure.

(c) Section 225.021(c) does not apply to this section.

ARTICLE 23. AVIATION FACILITIES DEVELOPMENT AND FINANCIAL ASSISTANCE

SECTION 23.01. Section 21.101, Transportation Code, is

amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The department may loan or grant money to a state agency with a governing board authorized to operate an airport, [~~or~~] to a governmental entity in this state, or to an owner of an eligible airport to establish, construct, reconstruct, enlarge, or repair an airport, airstrip, or air navigational facility if:

(1) the money has been appropriated to the department for that purpose; and

(2) providing the money will:

(A) best serve the public interest; and

(B) best discharge the governmental aeronautics function of the state or its political subdivisions.

(c) In this section, "eligible airport" means an airport eligible to receive grant funds under the airport improvement program established by 49 U.S.C. Section 47101 et seq.

SECTION 23.02. Section 21.105, Transportation Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Before approving a loan or grant to a governmental entity, the commission shall require that:

(1) the airport or facility remain in the control of each political subdivision involved for at least 20 years;

(2) the political subdivision disclose the source of all funds for the project and the political subdivision's ability to finance and operate the project;

(3) at least 10 percent of the total project cost be

provided by sources other than the state; and

(4) the project be adequately planned.

(c) Before approving a loan or grant to an owner of an eligible airport as defined by Section 21.101, the commission shall require that:

(1) the airport or facility remain an eligible airport for at least 20 years;

(2) the owner demonstrate the ability to finance and operate the project; and

(3) the project be adequately planned.

SECTION 23.03. Section 21.112, Transportation Code, is amended to read as follows:

Sec. 21.112. EXPENDITURE OF AIR FACILITY CONSTRUCTION MONEY [~~BY STATE GOVERNMENTAL ENTITIES~~]. A governmental entity or eligible airport, as defined by Section 21.101, that receives money from the department to establish, construct, reconstruct, enlarge, or repair an airport, airstrip, or air navigational facility shall spend the money for those purposes and in conformity with commission rules.

ARTICLE 24. COUNTY ROADS AND BRIDGES; MUNICIPAL STREETS

SECTION 24.01. Section 251.054, Transportation Code, is repealed.

SECTION 24.02. Subchapter Z, Chapter 311, Transportation Code, is amended by adding Section 311.905 to read as follows:

Sec. 311.905. NOTICE OF TRANSPORTATION USER'S FEE BY MUNICIPALITY. (a) A municipality that imposes a fee on the user of a benefited property equal to the prorated annual cost of the

transportation system owned by the municipality that can reasonably be attributed to the benefited property must provide notice to the department and the user of the fee.

(b) The notice to the department shall be given to the executive director by any commercially acceptable form of business communication. The notice to the user required under Subsection (a) is adequate if the fee amount is stated on monthly billing statements to the user for metered utility service provided by the municipality to the user.

ARTICLE 25. TRANSPORTATION REINVESTMENT ZONES

SECTION 25.01. Section 222.105, Transportation Code, is amended to read as follows:

Sec. 222.105. PURPOSES. The purposes of Sections 222.106 and 222.107 are to:

(1) promote public safety;

(2) facilitate the improvement, development, or redevelopment of property;

(3) facilitate the movement of traffic; [~~and~~]

(4) enhance a local entity's ability to sponsor a transportation project authorized under Section 222.104; and

(5) enhance a municipality's ability to provide for freight or passenger rail facilities or systems.

SECTION 25.02. Section 222.106, Transportation Code, is amended by amending Subsections (b), (c), (g), (h), (i), (j), (k), and (l) and adding Subsections (i-1), (i-2), (l-1), and (m) to read as follows:

(b) This section applies only to a municipality in which a

transportation project is to be developed or the governing body of which intends to acquire, construct, improve, or operate a freight or passenger rail facility or system, including commuter rail, intercity rail, high-speed rail, and tri-track [~~enter into an agreement with the department~~] under Section 222.104.

(c) If the governing body determines an area to be unproductive and underdeveloped and that action under this section will further the purposes stated in Section 222.105, the governing body of the municipality by ordinance may designate a contiguous geographic area in the jurisdiction of the municipality to be a transportation reinvestment zone to promote:

(1) a transportation project; or

(2) the acquisition, construction, improvement, or operation of a freight or passenger rail facility or system by the municipality [~~described by Section 222.104 that cultivates development or redevelopment of the area~~].

(g) The ordinance designating an area as a transportation reinvestment zone must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) provide that the zone takes effect immediately on passage of the ordinance;

(3) assign a name to the zone for identification, with the first zone designated by a municipality designated as "Transportation Reinvestment Zone Number One, (City or Town, as applicable) of (name of municipality)," and subsequently

designated zones assigned names in the same form, numbered consecutively in the order of their designation;

(4) designate the base year for purposes of establishing the tax increment base of the municipality;

(5) establish an ad valorem tax increment account for the zone; [~~and~~]

(6) [~~(5)~~] contain findings that promotion of the transportation project will cultivate the improvement, development, or redevelopment of the zone; and

(7) for a zone intended to promote the acquisition, construction, improvement, or operation of a freight or rail facility or system, provide for a date for termination of the zone.

(h) From taxes collected on property in a zone, the municipality shall pay into the tax increment account for the zone [~~an amount equal to~~] the tax increment produced by the municipality, less any amount allocated under previous agreements, including agreements under Chapter 380, Local Government Code, or Chapter 311, Tax Code.

(i) All or the portion specified by the municipality of the money deposited to a tax increment account must be used to fund the transportation project for which the zone was designated or, as applicable, the acquisition, construction, improvement, or operation of a freight or passenger rail facility or system as well as aesthetic improvements within the zone. Any remaining money deposited to the tax increment account may be used for other purposes as determined by the municipality [~~Money deposited to a tax increment account must be used to fund projects authorized~~

~~under Section 222.104, including the repayment of amounts owed under an agreement entered into under that section~~].

(i-1) The governing body of a municipality may contract with a public or private entity to develop, redevelop, or improve a transportation project in a transportation reinvestment zone and may pledge and assign all or a specified amount of money in the tax increment account to that entity. After a pledge or assignment is made, if the entity that received the pledge or assignment has itself pledged or assigned that amount to secure bonds or other obligations issued to obtain funding for the transportation project, the governing body of the municipality may not rescind its pledge or assignment until the bonds or other obligations secured by the pledge or assignment have been paid or discharged.

(i-2) To accommodate changes in the limits of the project for which a reinvestment zone was designated, the boundaries of a zone may be amended at any time, except that property may not be removed or excluded from a designated zone if any part of the tax increment account has been assigned or pledged directly by the municipality or through another entity to secure bonds or other obligations issued to obtain funding of the project, and property may not be added to a designated zone unless the governing body of the municipality complies with Subsections (e) and (g).

(j) Except as provided by Subsections (i-1), [~~Subsection~~] (k), and (l-1), a transportation reinvestment zone terminates on December 31 of the year in which the municipality completes [~~complies with~~] a contractual requirement, if any, that included the pledge or assignment of all or a portion of money deposited to a

tax increment account or the repayment of money owed under an [~~the~~] agreement for development, redevelopment, or improvement of the project for [~~under Section 222.104 in connection with~~] which the zone was designated.

(k) A transportation reinvestment zone terminates on December 31 of the 10th year after the year the zone was designated, if before that date the municipality has not entered into a contract described in Subsection (i-1) or otherwise not used the zone for the purpose for which it was designated.

(l) Any surplus remaining in a tax increment account on termination of a zone may be used for other purposes as determined by [~~transportation projects of~~] the municipality [~~in or outside of the zone~~].

(l-1) A transportation reinvestment zone designated to promote the acquisition, construction, improvement, or operation of a freight or passenger rail facility or system terminates on the earlier of:

(1) the termination date specified in the ordinance designating the zone or an earlier or later termination date specified by an ordinance adopted subsequent to the ordinance designating the zone; or

(2) the date on which all costs incurred in the acquisition, construction, improvement, or operation of the freight or passenger rail facility or system, tax increment bonds and interest on those bonds, and other obligations have been paid in full.

(m) In this section, "rail facility" has the meaning

assigned by Section 91.001.

SECTION 25.03. The heading to Section 222.107, Transportation Code, is amended to read as follows:

Sec. 222.107. COUNTY TRANSPORTATION REINVESTMENT ZONES[~~; TAX ABATEMENTS; ROAD UTILITY DISTRICTS~~].

SECTION 25.04. Section 222.107, Transportation Code, is amended by amending Subsections (b), (c), (e), (f), (h), (i), (k), and (l) and adding Subsections (h-1) and (k-1) to read as follows:

(b) This section applies only to a county in which a transportation project is to be developed [~~the commissioners court of which intends to enter into a pass-through toll agreement with the department~~] under Section 222.104.

(c) The commissioners court of the county, after determining that an area is unproductive and underdeveloped and that action under this section would further the purposes described by Section 222.105, by order or resolution may designate a contiguous geographic area in the jurisdiction of the county to be a transportation reinvestment zone to promote a transportation project [~~described by Section 222.104 that cultivates development or redevelopment of the area~~] and for the purpose of abating ad valorem taxes or granting other relief from taxes imposed by the county on real property located in the zone.

(e) Not later than the 30th day before the date the commissioners court proposes to designate an area as a transportation reinvestment zone under this section, the commissioners court must hold a public hearing on the creation of the zone, its benefits to the county and to property in the proposed

zone, and the abatement of ad valorem taxes or the grant of other relief from ad valorem taxes imposed by the county on real property located in the zone. At the hearing an interested person may speak for or against the designation of the zone, its boundaries, or the abatement of or the relief from county taxes on real property in the zone. Not later than the seventh day before the date of the hearing, notice of the hearing and the intent to create a zone must be published in a newspaper having general circulation in the county.

(f) The order or resolution designating an area as a transportation reinvestment zone must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) provide that the zone takes effect immediately on adoption of the order or resolution; [~~and~~]

(3) assign a name to the zone for identification, with the first zone designated by a county designated as "Transportation Reinvestment Zone Number One, County of (name of county)," and subsequently designated zones assigned names in the same form numbered consecutively in the order of their designation; and

(4) designate the base year for purposes of establishing the tax increment base of the county.

(h) The commissioners court by order or resolution may enter into an agreement with the owner of any real property located in the transportation reinvestment zone to abate all or a portion of the ad valorem taxes or to grant other relief from the taxes imposed by the

county on the owner's property in an amount not to exceed the amount calculated under Subsection (a)(1) for that year. All abatements or other relief granted by the commissioners court in a transportation reinvestment zone must be equal in rate. In the alternative, the commissioners court by order or resolution may elect to abate a portion of the ad valorem taxes or otherwise grant relief from the taxes imposed by the county on all real property located in the zone. In any ad valorem tax year, the total amount of the taxes abated or the total amount of relief granted under this section may not exceed the amount calculated under Subsection (a)(1) for that year, less any amounts allocated under previous agreements, including agreements under Chapter 381, Local Government Code, or Chapter 312, Tax Code.

(h-1) To further the development of the transportation project for which the transportation reinvestment zone was designated, a county may assess all or part of the cost of the transportation project against property within the zone. The assessment against each property in the zone may be levied and payable in installments in the same manner as provided by Sections 372.016-372.018, Local Government Code, provided that the installments do not exceed the total amount of the tax abatement or other relief granted under Subsection (h). The county may elect to adopt and apply the provisions of Sections 372.015-372.020 and 372.023, Local Government Code, to the assessment of costs and Sections 372.024-372.030, Local Government Code, to the issuance of bonds by the county to pay the cost of a transportation project. The commissioners court of the county may contract with a public or

private entity to develop, redevelop, or improve a transportation project in the transportation reinvestment zone, including aesthetic improvements, and may pledge and assign to that entity all or a specified amount of the revenue the county receives from installment payments of the assessments for the payment of the costs of that transportation project. After a pledge or assignment is made, if the entity that received the pledge or assignment has itself pledged or assigned that amount to secure bonds or other obligations issued to obtain funding for the transportation project, the commissioners court of the county may not rescind its pledge or assignment until the bonds or other obligations secured by the pledge or assignment have been paid or discharged. Any amount received from installment payments of the assessments not pledged or assigned in connection with the transportation project may be used for other purposes associated with the transportation project or in the zone.

(i) In the alternative, to [~~To~~] assist the county in developing a transportation project [~~authorized under Section 222.104~~], if authorized by the commission under Chapter 441, a road utility district may be formed under that chapter that has the same boundaries as a transportation reinvestment zone created under this section.

(k) A road utility district formed as provided by Subsection (i) may enter into an agreement [~~with the county to assume the obligation, if any, of the county~~] to fund development of a project [~~under Section 222.104~~] or to repay funds owed to the department [~~under Section 222.104~~]. Any amount paid for this purpose is

considered to be an operating expense of the district. Any taxes collected by the district that are not paid for this purpose may be used for any district purpose.

(k-1) To accommodate changes in the limits of the project for which a reinvestment zone was designated, the boundaries of a zone may be amended at any time, except that property may not be removed or excluded from a designated zone if any part of the assessment has been assigned or pledged directly by the county or through another entity to secure bonds or other obligations issued to obtain funding of the project, and property may not be added to a designated zone unless the governing body of the municipality complies with Subsections (e) and (f).

(l) Except as provided by Subsection (m), a tax abatement agreement entered into under Subsection (h), or an order or resolution on the abatement of taxes or the grant of relief from taxes under that subsection, terminates on December 31 of the year in which the county completes any contractual requirement that included the pledge or assignment of assessments [~~of money~~] collected under this section.

SECTION 25.05. Subchapter E, Chapter 222, Transportation Code, is amended by adding Sections 222.108 and 222.109 to read as follows:

Sec. 222.108. TRANSPORTATION REINVESTMENT ZONES FOR OTHER TRANSPORTATION PROJECTS. (a) Notwithstanding the requirement in Sections 222.106(b) and 222.107(b) that a transportation reinvestment zone be established in connection with a project under Section 222.104, a municipality or county may establish a

transportation reinvestment zone for any transportation project. If all or part of the transportation project is subject to oversight by the department, at the option of the governing body of the municipality or county, the department may delegate full responsibility for the development, design, letting of bids, and construction of the project, including project oversight and inspection, to the municipality or county.

(b) A transportation project developed under Subsection (a) that is on the state highway system must comply with state design criteria unless the department grants an exception to the municipality or county.

(c) In this section, "transportation project" has the meaning assigned by Section 370.003.

Sec. 222.109. REDUCTION PROHIBITED. (a) A municipality or county may not be penalized with a reduction in traditional transportation funding because of the designation and use of a transportation reinvestment zone under this chapter. Any funding from the department identified for a project before the date that a transportation reinvestment zone is designated may not be reduced because the transportation reinvestment zone is designated in connection with that project.

(b) The department may not reduce any allocation of traditional transportation funding to any of its districts because a district contains a municipality or county that contains a transportation reinvestment zone designated under this chapter.

ARTICLE 26. TERMINATION OF COMPREHENSIVE DEVELOPMENT AGREEMENT BY PURCHASE

SECTION 26.01. Sections 223.208(b) and (h), Transportation Code, are amended to read as follows:

(b) A comprehensive development agreement entered into under this subchapter or Section 227.023(c) must include a provision [~~may include any provision that the department considers appropriate, including provisions:~~

[~~(1)~~] providing for the purchase by the department[~~, under terms and conditions agreed to by the parties,~~] of the interest of a private participant in the comprehensive development agreement and related property as required by Section 371.101 and may include any other provision the department considers appropriate, including a provision:

(1) [~~, including any interest in a highway or other facility designed, developed, financed, constructed, operated, or maintained under the comprehensive development agreement,~~

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

[~~(3)~~] providing for the payment of obligations incurred pursuant to the comprehensive development agreement, including any obligation to pay the purchase price for the interest of a private participant in the comprehensive development agreement, from any lawfully available source, including securing

such obligations by a pledge of revenues of the commission or the department derived from the applicable project, which pledge shall have such priority as the department may establish;

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

(3) [~~(5)~~] concerning the private participant's right to operate and collect revenue from the project; and

(4) [~~(6)~~] restricting the right of the commission or the department to terminate the private participant's right to operate and collect revenue from the project unless and until any applicable termination payments have been made.

(h) A comprehensive development agreement with a private participant that includes the collection by the private participant of tolls for the use of a toll project may be for a term not longer than 50 years from the later of the date of final acceptance of the project or the start of revenue operations by the private participant, not to exceed a total term of 52 years. [~~The comprehensive development agreement must contain an explicit mechanism for setting the price for the purchase by the department of the interest of the private participant in the comprehensive development agreement and related property, including any interest in a highway or other facility designed, developed, financed, constructed, operated, or maintained under the agreement.~~]

SECTION 26.02. Sections 366.407(b) and (g), Transportation Code, are amended to read as follows:

(b) A comprehensive development agreement entered into under this subchapter must [~~may~~] include [~~any provision the~~

~~authority considers appropriate, including~~] a provision[~~:~~

[~~(1)~~] providing for the purchase by the authority[~~, under terms and conditions agreed to by the parties,~~] of the interest of a private participant in the comprehensive development agreement as required by Section 371.101 and may include any other provision the authority considers appropriate, including a provision:

(1) [~~and related property, including any interest in a turnpike project designed, developed, financed, constructed, operated, or maintained under the comprehensive development agreement;~~

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

[~~(3)~~] providing for the payment of an obligation incurred under the comprehensive development agreement, including an obligation to pay the purchase price for the interest of a private participant in the comprehensive development agreement, from any available source, including securing the obligation by a pledge of revenues of the authority derived from the applicable project, which pledge shall have priority as established by the authority;

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

(3) [~~(5)~~] concerning the private participant's right

to operate and collect revenue from the turnpike project; and

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

(g) A [~~Except as provided by this subsection, a~~] comprehensive development agreement with a private participant that includes the collection by the private participant of tolls for the use of a toll project may be for a term not longer than 50 years from the later of the date of final acceptance of the project or the start of revenue operations by the private participant, not to exceed a total term of 52 years. [~~The contract must contain an explicit mechanism for setting the price for the purchase by the department of the interest of the private participant in the contract and related property, including any interest in a highway or other facility designed, developed, financed, constructed, operated, or maintained under the contract.~~]

SECTION 26.03. Section 370.311(b), Transportation Code, is amended to read as follows:

(b) A comprehensive development agreement entered into under Section 370.305 must include a provision authorizing the authority to purchase, under terms agreed to by the parties, the interest of a private equity investor in a transportation project as required by Section 371.101.

SECTION 26.04. Section 371.002, Transportation Code, as added by Chapter 264 (S.B. 792), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

Sec. 371.002. APPLICABILITY. This chapter does not apply to:

(1) a project for which the commission selected an apparent best value proposer before May 1, 2007; or

(2) a publicly owned and operated toll project, as defined by Section 373.001.

SECTION 26.05. Section 371.101, Transportation Code, as added by Chapter 264 (S.B. 792), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

Sec. 371.101. TERMINATION BY PURCHASE [~~FOR CONVENIENCE~~]. (a) A comprehensive development agreement must contain a provision authorizing the toll project entity to purchase, under terms agreed to by the parties:

(1) the interest of a private participant in the toll project that is the subject of the agreement; and

(2) related property, including any interest in a highway or other facility designed, developed, financed, constructed, operated, or maintained under the agreement.

(b) The provision must include a schedule stating a specific price for the purchase of the toll project at certain intervals from the date the project opens, not less than one year and not to exceed five years, over the term of the agreement.

(c) The provision must authorize the toll project entity to purchase the private entity's interest at a stated interval in an amount not to exceed the lesser of:

(1) the price stated for that interval; or

(2) the then fair market value of the private entity's

interest, provided that the fair market value is not less than the private entity's outstanding debt at that time plus other reasonable costs associated with the purchase as defined in the comprehensive development agreement.

(d) A toll project entity may not, under any circumstance, purchase the private entity's interest for an amount higher than the stated interval amount.

(e) A contract provision to purchase the private entity's interest at the then fair market value as described by Subsection (c)(2) must contain a provision, mutually agreed on by the toll project entity and the private participant, detailing the calculation used to determine that value.

(f) The toll project entity shall request a proposed termination-by-purchase schedule in each request for detailed proposals and shall consider and score each schedule in each evaluation of proposals.

(g) A private entity shall, not later than 12 months before the date that a new price interval takes effect, notify the toll project entity of the beginning of the price interval. The toll project entity must notify the private entity as to whether it will exercise the option to purchase under this section not later than six months after the date it receives notice under this subsection.

(h) A toll project entity must notify the private entity of the toll project entity's intention to purchase the private entity's interest under this section not less than six months before the date of the purchase [~~A toll project entity having rulemaking authority by rule and a toll project entity without~~

~~rulemaking authority by official action shall develop a formula for making termination payments to terminate a comprehensive development agreement under which a private participant receives the right to operate and collect revenue from a toll project. A formula must calculate an estimated amount of loss to the private participant as a result of the termination for convenience.~~

[~~(b) The formula shall be based on investments, expenditures, and the internal rate of return on equity under the agreed base case financial model as projected over the original term of the agreement, plus an agreed percentage markup on that amount.~~

[~~(c) A formula under Subsection (b) may not include any estimate of future revenue from the project, if not included in an agreed base case financial model under Subsection (b). Compensation to the private participant upon termination for convenience may not exceed the amount determined using the formula under Subsection (b)~~].

SECTION 26.06. Section 371.102, Transportation Code, as added by Chapter 264 (S.B. 792), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

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

(1) [~~if authorized to issue bonds for that purpose,~~] issue bonds or other obligations to:

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

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

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

(b) A toll project entity has the same powers and duties relating to the financing of payments under Subsection (a)(1) as the toll project entity has under other applicable laws of this state, including Chapters 228, 284, 366, and 370 of this code and Chapter 1371, Government Code, relating to the financing of a toll project of that entity, including the ability to deposit the proceeds of bonds or other obligations and to pledge, encumber, and expend the proceeds and revenues of a toll project as provided by law.

(c) The powers held by the toll project entity include the power to authorize the issuance of bonds or other obligations and to pay all or part of the costs of a payment described in Subsection (a)(1), in the amount determined by the toll project entity under Section 371.101. Costs associated with a payment under Subsection (a)(1) are considered a cost of the project.

(d) This section shall be liberally construed to effect its purposes.

SECTION 26.07. (a) Section 371.101, Transportation Code, as amended by this Act, does not apply to a comprehensive

development agreement for:

(1) the DFW Connector project in Tarrant and Dallas Counties (State Highway 114 from State Highway 114L Business to east of International Parkway and State Highway 121 from north of FM 2499 to south of State Highway 360);

(2) the North Tarrant Express project in Tarrant and Dallas Counties (IH 820 and State Highway 121/State Highway 183 from IH 35W to State Highway 161, IH 820 east from State Highway 121/State Highway 183 to Randol Mill Road, and IH 35W from IH 30 to State Highway 170);

(3) the IH 635 managed lanes project in Dallas County (IH 635 from east of Luna Road to Greenville Avenue and IH 35E from south of the Loop 12/IH 35E split to south of Valwood Parkway);

(4) the Loop 9 project in Dallas County;

(5) a project located south of Refugio County on the ISTEA High Priority Corridor identified in Sections 1105(c)(18) and (20) of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. No. 102-240), as amended by Section 1211 of the Transportation Equity Act for the 21st Century (Pub. L. No. 105-178, as amended by Title IX, Pub. L. No. 105-206), if the project is part of the highway corridor designated by those laws;

(6) the following projects to be developed in connection with the projects described under Subdivision (5):

(A) the Corpus Christi Southside Mobility Corridor;

(B) the State Highway 358 managed lanes project and the State Highway 286 managed lanes project in Nueces County;

and

(C) the State Highway 550 spur project and the West Loop project in Cameron County; or

(7) a project on the IH 69 corridor in Bowie County.

(b) A project described by this section is governed by Section 371.101, Transportation Code, as it existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 26.08. The change in law made by this Act to Section 223.208, Transportation Code, does not apply to a project described in Section 26.07 of this Act. A project described in that section is governed by Section 223.208, Transportation Code, as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

ARTICLE 27. DEVELOPMENT OF TOLL PROJECT IN AREA WITH MORE THAN ONE TOLL PROJECT ENTITY

SECTION 27.01. Section 284.004(b), Transportation Code, is amended to read as follows:

(b) In addition to authority granted by other law, a county may use state highway right-of-way and may access state highway right-of-way in accordance with Sections 228.011 and 373.102 [~~228.0111~~].

SECTION 27.02. Section 284.061(d), Transportation Code, is amended to read as follows:

(d) Subject to the reimbursement requirements of Section 373.102, a [~~A~~] county has full easements and rights-of-way through, across, under, and over any property owned by this state that are

necessary or convenient to construct, acquire, or efficiently operate a project under this chapter.

SECTION 27.03. Section 366.170(c), Transportation Code, is amended to read as follows:

(c) An authority has full easements and rights-of-way through, across, under, and over any property owned by the state or any local governmental entity that are necessary or convenient to construct, acquire, or efficiently operate a turnpike project or system under this chapter. This subsection does not affect the obligation of the authority under other state law, including Section 373.102, to compensate or reimburse the state for the use or acquisition of an easement or right-of-way on property owned by or on behalf of the state. An authority's use of property owned by or on behalf of the state is subject to any covenants, conditions, restrictions, or limitations affecting that property.

SECTION 27.04. Section 370.169(c), Transportation Code, is amended to read as follows:

(c) An authority has full easements and rights-of-way through, across, under, and over any property owned by the state or any local government that are necessary or convenient to construct, acquire, or efficiently operate a transportation project or system under this chapter. This subsection does not affect the obligation of the authority under other law, including Section 373.102, to compensate or reimburse this state for the use or acquisition of an easement or right-of-way on property owned by or on behalf of this state. An authority's use of property owned by or on behalf of this state is subject to any covenants, conditions, restrictions, or

limitations affecting that property.

SECTION 27.05. Subtitle G, Title 6, Transportation Code, is amended by adding Chapter 373 to read as follows:

CHAPTER 373. TOLL PROJECTS LOCATED IN TERRITORY OF LOCAL TOLL PROJECT ENTITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 373.001. DEFINITIONS. In this chapter:

(1) "Local toll project entity" means an entity, other than the department, that is authorized by law to acquire, design, construct, finance, operate, and maintain a toll project, including:

(A) a regional tollway authority under Chapter 366;

(B) a regional mobility authority under Chapter 370; or

(C) a county acting under Chapter 284.

(2) "Privately operated or controlled toll project" means a toll project that is primarily commercial in nature and is designed and constructed by a private entity that holds a leasehold interest in or the right to operate and retain revenues from the toll project, regardless of whether the private entity operates the toll project or collects the revenue itself or engages a subcontractor or other entity to operate the toll project or collect the revenue. The term does not include a toll project for which the department or a toll project entity contracts with a private entity only for engineering, design, construction, finance, operation, maintenance, or other services.

(3) "Publicly owned and operated toll project" means a toll project owned and operated by the department or a local toll project entity in which a private entity does not have a leasehold interest or right to operate or retain revenue from the toll project. The term does not include a privately operated or controlled toll project, but may include a toll project for which a private entity provides:

(A) engineering, design, construction, finance, operation, maintenance, or other services; or

(B) financial assistance for the toll project that does not entitle the private entity to any ownership interest in or the right to operate or retain revenue from the toll project.

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

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

(B) subject to the jurisdiction of the department.

Sec. 373.002. APPLICABILITY. (a) This chapter does not apply to a toll project described in Section 228.011.

(b) Except for Sections 373.003, 373.004, and 373.005, this chapter does not apply to:

(1) the U.S. 281 project in Bexar County from Loop 1604 to the Comal County line;

(2) the Loop 49 project from IH 20 to State Highway 110 in Smith County;

(3) the DFW Connector project in Tarrant and Dallas Counties (State Highway 114 from State Highway 114L Business to

east of International Parkway and State Highway 121 from north of FM 2499 to south of State Highway 360);

(4) the North Tarrant Express project in Tarrant and Dallas Counties (IH 820 and State Highway 121/State Highway 183 from IH 35W to State Highway 161, IH 820 east from State Highway 121/State Highway 183 to Randol Mill Road, and IH 35W from IH 30 to State Highway 170);

(5) the U.S. 290 project from east of U.S. 183 to east of FM 973 in Travis County;

(6) the State Highway 99 (Grand Parkway) project;

(7) the IH 635 managed lanes project in Dallas County (IH 635 from east of Luna Road to Greenville Avenue and IH 35E from south of the Loop 12/IH 35E split to south of Valwood Parkway);

(8) Phase 4 extension of the Dallas North Tollway in Collin and Denton Counties from U.S. 380 to the Grayson County line to be developed by North Texas Tollway Authority;

(9) the Southwest Parkway (State Highway 121) in Tarrant County from Interstate 30 to Dirks Road/Altamesa Boulevard and the Chisholm Trail project from Dirks Road/Altamesa Boulevard to U.S. Highway 67 in the City of Cleburne; or

(10) the Loop 9 project in Dallas County.

Sec. 373.003. PROJECT OWNED IN PERPETUITY. Unless a toll project is sold or otherwise transferred to another toll project entity in accordance with applicable law, including Sections 228.151, 284.011, 366.036, 366.172, and 370.171, a toll project procured by the department or a local toll project entity determined by the process under Subchapter B is owned by that entity

in perpetuity.

Sec. 373.004. GOVERNMENTAL AND NOT COMMERCIAL TRANSACTIONS. A transaction involving a local toll project entity under Section 228.011 or this chapter is not primarily commercial in nature but is an inherently governmental transaction whose purpose is to determine governmental jurisdiction, ownership, control, or other responsibilities with respect to a project.

Sec. 373.005. VALUATION DETERMINATION. Any determination of value, including best value, under this chapter or other applicable federal or state law for a comprehensive development agreement or other public-private partnership arrangement involving a toll project for which a local toll project entity has exercised its option under this chapter and has complied with all other conditions in this chapter for the development of the project by the local toll project entity must take into consideration factors the entity determines appropriate, including factors related to:

(1) oversight of the toll project;

(2) maintenance and operations costs of the toll project;

(3) the structure and rates of tolls;

(4) economic development impacts of the toll project; and

(5) social and environmental benefits and impacts of the toll project.

Sec. 373.006. LEGAL CHALLENGES CONCLUDED. For the purposes of this chapter, all legal challenges to development of a toll

project are considered concluded when a judgment or order of a court with jurisdiction over the challenge becomes final and unappealable.

[Sections 373.007-373.050 reserved for expansion]

SUBCHAPTER B. PROCESS TO DETERMINE ENTITY TO DEVELOP, FINANCE, CONSTRUCT, AND OPERATE TOLL PROJECT

Sec. 373.051. INITIATION OF PROCESS. (a) At any time after a metropolitan planning organization approves the inclusion of a toll project to be located in the territory of a local toll project entity in the metropolitan transportation plan, the local toll project entity may notify the department in writing of the local toll project entity's intent to initiate the process described in this subchapter.

(b) The department may notify the local toll project entity in writing of the department's intent to initiate the process described in this subchapter at any time after a metropolitan planning organization has approved the inclusion of a toll project to be located in the territory of a local toll project entity in the metropolitan transportation plan and:

(1) the department has issued a finding of no significant impact for the project, or for a project for which an environmental impact statement is prepared, the department has approved the final environmental impact statement for the project; or

(2) for a project subject to environmental review requirements under federal law, the United States Department of Transportation Federal Highway Administration has issued a finding

of no significant impact, or for a project for which an environmental impact statement is prepared, the department has submitted a final environmental impact statement to the Federal Highway Administration for approval.

Sec. 373.052. PUBLIC PROJECT BY LOCAL TOLL PROJECT ENTITY. (a) A local toll project entity has the first option to develop, finance, construct, and operate a toll project as a publicly owned and operated toll project. A local toll project entity has not more than 180 days after the date on which notification under Section 373.051(a) is provided or notification under Section 373.051(b) is received to decide whether to exercise the option, unless the United States Department of Transportation Federal Highway Administration issues a record of decision for an environmental impact statement submitted by the department under Section 373.051(b)(2) more than 60 days after the date the department provides notice under Section 373.051(b), in which event the local toll project entity has 120 days after the date the record of decision is issued to exercise the option. The option period under this subsection may be extended an additional 90 days by agreement of the department and the local toll project entity.

(b) If a local toll project entity exercises the option under Subsection (a), the local toll project entity after exercising the option must:

(1) within 180 days after the later of the date of exercising its option or the date on which all environmental approvals necessary for the development of the toll project are secured and all legal challenges to development are concluded,

advertise for the initial procurement of required services, including, at a minimum, design services, for the project; and

(2) within two years after the date on which all environmental approvals necessary for the development are secured and all legal challenges to development are concluded, enter into a contract for the construction of the toll project.

Sec. 373.053. PUBLIC PROJECT BY DEPARTMENT. (a) If a local toll project entity fails or declines to exercise the option to develop, finance, construct, and operate a toll project under Section 373.052(a), or fails or declines to advertise for procurement or enter into a construction contract as required by Section 373.052(b), the department has the option to develop, finance, construct, and operate the toll project as a publicly owned and operated project. The department has not more than 60 days after the date the local toll project entity fails or declines to exercise its option under Section 373.052(a) or fails or declines to advertise for procurement or enter into a construction contract as required by Section 373.052(b) to decide whether to exercise its option.

(b) If the department exercises its option under Subsection (a), the department after exercising the option must:

(1) within 180 days after the later of the date of exercising its option or the date on which all environmental approvals necessary for the development of the toll project are secured and all legal challenges to development are concluded, advertise for the initial procurement of required services, including, at a minimum, design services, for the project; and

(2) within two years after the date on which all environmental approvals necessary for the development are secured and all legal challenges to development are concluded, enter into a contract for the construction of the toll project.

Sec. 373.054. PRIVATE PROJECT BY LOCAL TOLL PROJECT ENTITY. (a) If the department fails or declines to exercise the option to develop, finance, construct, and operate a toll project under Section 373.053(a), or fails or declines to advertise for procurement or enter into a construction contract as required by Section 373.053(b), the local toll project entity has the option to develop, finance, construct, and operate the toll project as a privately operated or controlled toll project. Except as provided by Section 373.057(b), the local toll project entity has not more than 60 days after the date the department fails or declines to exercise its option under Section 373.053(a) or fails or declines to advertise for procurement or enter into a construction contract as required by Section 373.053(b) to decide whether to exercise its option.

(b) If the local toll project entity exercises its option under Subsection (a), the local toll project entity after exercising the option must:

(1) within 180 days after the later of the date of exercising its option or the date on which all environmental approvals necessary for the development of the toll project are secured and all legal challenges to development are concluded, advertise for the initial procurement of required services, including, at a minimum, design services, for the project; and

(2) within two years after the date on which all environmental approvals necessary for the development are secured and all legal challenges to development are concluded, enter into a contract for the construction of the toll project.

Sec. 373.055. PRIVATE PROJECT BY DEPARTMENT. (a) If a local toll project entity fails or declines to exercise the option to develop, finance, construct, and operate a toll project under Section 373.054(a), or fails or declines to advertise for procurement or enter into a construction contract as required by Section 373.054(b), the department has the option to develop, finance, construct, and operate the toll project as a privately operated or controlled toll project. The department has not more than 60 days after the date the local toll project entity fails or declines to exercise its option under Section 373.054(a) or fails or declines to advertise for procurement or enter into a construction contract as required by Section 373.054(b) to decide whether to exercise its option.

(b) If the department exercises its option under Subsection (a), the department after exercising the option must:

(1) within 180 days after the later of the date of exercising its option or the date on which all environmental approvals necessary for the development of the toll project are secured and all legal challenges to development are concluded, advertise for the initial procurement of required services, including, at a minimum, design services, for the project; and

(2) within two years after the date on which all environmental approvals necessary for the development are secured

and all legal challenges to development are concluded, enter into a contract for the construction of the toll project.

Sec. 373.056. RE-INITIATION OF PROCESS. If the process described by Sections 373.051, 373.052, 373.053, 373.054, and 373.055 concludes without the local toll project entity or the department entering into a contract for the construction of the toll project, either entity may re-initiate the process under this subchapter by submitting notice to the other entity in the manner provided by Section 373.051.

Sec. 373.057. WAIVER OF OPTION; ALTERATION OF TIMELINES. (a) The department or local toll project entity may at any time during the process established by this subchapter, including when the process is initiated under Section 373.051, decline to exercise an option of that entity under this subchapter.

(b) If the department declines to exercise its option under Section 373.053 before the 120th day after the date on which notification under Section 373.051(a) is provided to the local toll project entity or notification under Section 373.051(b) is received by the toll project entity, the local toll project entity must, in addition to deciding whether to exercise its option under Section 373.052, decide whether to exercise its option under Section 373.054 not later than the later of:

(1) the 180th day after the date notice is provided or received; or

(2) the end of the option period as extended under Section 373.052.

(c) The department and the applicable local toll project

entity may, by written agreement, extend any time limit under this subchapter.

Sec. 373.058. SHARING OF PROJECT-RELATED INFORMATION. (a) If a local toll project entity or the department fails or declines to exercise an option or fails or declines to advertise for procurement or enter into a construction contract under Section 373.052, 373.053, 373.054, or 373.055, the local toll project entity or the department, as applicable, must make available its traffic estimates, revenue estimates, plans, specifications, surveys, appraisals, and other work product developed for the toll project to the other entity.

(b) On entering into a contract for the construction of the toll project, the department or the local toll project entity, as applicable, shall reimburse the other entity for shared project work product that it uses.

Sec. 373.059. QUARTERLY PROGRESS REPORTS. After the department or a local toll project entity exercises an option under this subchapter, the department or local toll project entity, as applicable, shall issue a quarterly report on the progress of the development of the toll project. The report shall be made available to the public.

Sec. 373.060. ENVIRONMENTAL REVIEW. (a) The department or the local toll project entity may begin any environmental review process that may be required for a proposed toll project before initiating the process under this subchapter.

(b) If a local toll project entity initiates the process for development of a toll project under Section 373.051(a) and has not

begun the environmental review of the project, the local toll project entity shall begin the environmental review within 180 days of exercising the option.

Sec. 373.061. PROJECT LOCATED IN TERRITORY OF MORE THAN ONE LOCAL TOLL PROJECT ENTITY. If a toll project is in the territory of more than one local toll project entity, only the local toll project entity that was first to be authorized by law to construct toll projects in that territory may exercise the options and other rights under this subchapter. A local toll project entity exercising an option or other right under this section:

(1) may do so only with respect to the portion of the project located in the territory of that local toll project entity; and

(2) may do so on behalf of another toll project entity in whose territory the project will be located.

[Sections 373.062-373.100 reserved for expansion]

SUBCHAPTER C. USE OF RIGHT-OF-WAY BY LOCAL TOLL PROJECT ENTITY

Sec. 373.101. USE OF STATE HIGHWAY RIGHT-OF-WAY. (a) Consistent with federal law, the commission and the department shall assist a local toll project entity in the development, financing, construction, and operation of a toll project for which the local toll project entity has exercised its option to develop, finance, construct, and operate the project under Subchapter B by allowing the local toll project entity to use state highway right-of-way and to access the state highway system as necessary to construct and operate the toll project.

(b) Notwithstanding any other law, the local toll project

entity and the commission may agree to remove the toll project from the state highway system and transfer ownership to the local toll project entity.

Sec. 373.102. REIMBURSEMENT FOR USE OF STATE HIGHWAY RIGHT-OF-WAY. (a) The commission or the department may not require a local toll project entity to pay for the use of state highway right-of-way or access, except:

(1) to reimburse the department for actual costs incurred by the department that are owed to a third party, including the federal government, as a result of that use by the local toll project entity; and

(2) as required under Subsection (b).

(b) A local toll project entity shall reimburse the department for the department's actual costs to acquire the right-of-way in the manner provided in the payment schedule agreed to by the department and the local toll project entity. If the department cannot determine that amount, the amount must be determined based on the average historical right-of-way acquisition values for comparable right-of-way located in proximity to the project on the date of original acquisition of the right-of-way.

(c) In lieu of reimbursement, the local toll project entity may agree to pay to the department a portion of the revenues of the project, in the amount and for the period of time agreed to by the local toll project entity and the department.

(d) Money received by the department under this section shall be deposited in the state highway fund and, except for

reimbursement for costs owed to a third party, used to fund additional projects in the department district in which the toll project is located.

(e) The commission or department may waive the requirement of reimbursement under this section.

Sec. 373.103. AGREEMENT FOR USE OF RIGHT-OF-WAY. A local toll project entity shall enter into an agreement with the department for any project for which the entity has exercised its option to develop, finance, construct, and operate the project under Subchapter B and for which the entity intends to use state highway right-of-way. The agreement must contain provisions necessary to ensure that the local toll project entity's construction, maintenance, and operation of the project complies with the requirements of applicable state and federal law.

Sec. 373.104. LIABILITY FOR DAMAGES. (a) Notwithstanding any other law, the commission and the department are not liable for any damages that result from a local toll project entity's use of state highway right-of-way or access to the state highway system under this subchapter, regardless of the legal theory, statute, or cause of action under which liability is asserted.

(b) An agreement entered into by a local toll project entity and the department in connection with a toll project that is financed, constructed, or operated by the local toll project entity and that is on or directly connected to a highway in the state highway system does not create a joint enterprise for liability purposes.

Sec. 373.105. COMPLIANCE WITH FEDERAL LAW. Notwithstanding

an action taken by a local toll project entity under this subchapter, the commission or department may take any action that in its reasonable judgment is necessary to comply with any federal requirement to enable this state to receive federal-aid highway funds.

SECTION 27.06. Subchapter A, Chapter 228, Transportation Code, is amended by adding Section 228.014 to read as follows:

Sec. 228.014. DEVELOPMENT OF THE GRAND PARKWAY. (a) For the purposes of the application of Subdivision (1), Subsection (g) or Subdivision (1), Subsection (i) of Section 228.0111 to the State Highway 99 (Grand Parkway) project, the terms of this section shall apply.

(b) Subject to Subsection (h), the State Highway 99 (Grand Parkway) project shall be developed in multiple segments, as follows:

(1) Segment A from SH 146 to IH 45(S);

(2) Segment B from SH 288 to IH 45(S);

(3) Segment C from US 59(S) to SH 288;

(4) Segment D from US 59(S) to IH 10(W);

(5) Segment E from IH 10 (W) to US 290 (Northwest Freeway);

(6) Segment F-1 from US 290 (Northwest Freeway) to SH 249 (Tomball Parkway);

(7) Segment F-2 from SH 249 (Tomball Parkway) to IH 45 (N) (North Freeway);

(8) Segment G from IH 45(N) (North Freeway) to US 59(N) (Eastex Freeway);

(9) Segment H and Segment I-1 from US 59 (N) to IH 10 (E); and

(10) Segment I-2 from near SH 146 to IH 10 (E).

(c) Segments C through G shall constitute the western portion of the project. Segments A, B, H, I-1, and I-2 shall constitute the eastern portion of the project.

(d) The local toll project entity or the department, as applicable, must enter into a contract for the construction of each of Segments D, E, F-1, and F-2 of the project within, for a segment of the project, the two-year period described by Subdivision (1), Subsection (g), Section 228.0111, or Subdivision (1), Subsection (i), Section 228.0111, and must enter into a contract for the construction of Segment G of the project within three years after the date on which all environmental requirements necessary for the development of that segment are secured and all legal challenges to development are concluded. If the local toll project entity does not enter into a contract for construction of each of those segments of the project within the two or three year period applicable to that segment, the department shall have the option to develop, finance, construct, and operate the project pursuant to Section 228.0111(i).

(e) In any event, a local toll project entity or the department, as applicable, is not required to enter into a construction contract for Segment C before the second anniversary of the date construction of the remainder of the western portion has been completed.

(f) For the eastern portion of the project, a local toll

project entity or the department, as applicable, is not required to enter into a construction contract for any segment before the second anniversary of the date on which the final segment of the western portion is completed. After a construction contract has been entered into for the initial segment of the eastern portion, excluding Segment I-2, for each of the remaining segments of the eastern portion, a local toll project entity or the department, as applicable, is not required to enter into a construction contract for any remaining segment before the second anniversary of the date construction of a segment in the eastern portion contiguous to that initial segment, excluding Segment I-2, has been completed.

(g) In all events, the contracting requirements shall be subject to the securing of all environmental requirements necessary for the development of the project and the conclusion of all legal challenges to development of the project, as provided in Subdivision (1), Subsection (g), Section 228.0111, or Subdivision (1), Subsection (i), Section 228.0111, as applicable.

(h) The department and the local toll project entity may enter into an agreement modifying the segment descriptions and the development sequence specified in this section.

(i) The local toll project entity or the department, as applicable, may enter into one or more agreements, including a comprehensive development agreement, with a public or private entity relating to the construction, development, financing, operation and maintenance of the State Highway 99 (Grand Parkway) project. Notwithstanding any law to the contrary, the agreement may contain such provisions relating to revenue sharing and

concession payments as the local toll project entity or the department, as applicable, may determine.

SECTION 27.07. Section 228.0111, Transportation Code, is repealed.

SECTION 27.08. The repeal of Section 228.0111, Transportation Code, by this Act does not affect any project described in Section 373.002(b), Transportation Code, as added by this Act. A project described in that subsection is governed by Section 228.0111, Transportation Code, as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

ARTICLE 28. NONCOMPETITION PROVISIONS IN COMPREHENSIVE DEVELOPMENT AGREEMENTS

SECTION 28.01. Sections 371.103(b) and (c), Transportation Code, as added by Chapter 264 (S.B. 792), Acts of the 80th Legislature, Regular Session, 2007, are amended to read as follows:

(b) Except as provided by Subsection (c), a comprehensive development agreement may contain a provision authorizing the toll project entity to compensate the private participant in the agreement for the loss of toll revenues attributable to the construction by the entity of a limited access highway project located within an area that extends up to four miles from either side of the centerline of the project developed under the agreement, less the private participant's decreased operating and maintenance costs attributable to the highway project, if any. A provision under this subsection may be effective only for a period of 30 years or less from the effective date of the agreement.

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

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

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

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

(4) a transportation project that provides a mode of transportation that is not included in the project that is the subject of the comprehensive development agreement; or

(5) a highway designated an interstate highway.

SECTION 28.02. (a) The change in law made by this Act to Section 371.103, Transportation Code, does not apply to:

(1) the DFW Connector project in Tarrant and Dallas Counties (State Highway 114 from State Highway 114L Business to east of International Parkway and State Highway 121 from north of FM 2499 to south of State Highway 360);

(2) the North Tarrant Express project in Tarrant and Dallas Counties (IH 820 and State Highway 121/State Highway 183 from IH 35W to State Highway 161, IH 820 east from State Highway 121/State Highway 183 to Randol Mill Road, and IH 35W from IH 30 to

State Highway 170);

(3) the State Highway 99 (Grand Parkway) project;

(4) the IH 635 managed lanes project in Dallas County (IH 635 from east of Luna Road to Greenville Avenue and IH 35E from south of the Loop 12/IH 35E split to south of Valwood Parkway); or

(5) the Loop 9 project in Dallas County.

(b) A project described by Subsection (a) of this section is governed by Section 371.103, Transportation Code, as that section existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

ARTICLE 29. TOLL COLLECTIONS

SECTION 29.01. Section 228.055, Transportation Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) It is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle is a lessor of the vehicle and not later than the 30th day after the date the notice of nonpayment is mailed provides to the department:

(1) a copy of the rental, lease, or other contract document covering the vehicle on the date of the nonpayment under Section 228.054, with the name and address of the lessee clearly legible; or

(2) electronic data, in a format agreed on by the department and the lessor, other than a photocopy or scan of a rental or lease contract, that contains the information required under Sections 521.460(c)(1), (2), and (3) covering the vehicle on the date of the nonpayment under Section 228.054.

(d-1) If the lessor provides the required information within the period prescribed under Subsection (d), the department may send a notice of nonpayment to the lessee at the address provided under Subsection (d) [~~shown on the contract document~~] by first class mail before the 30th day after the date of receipt of the required information from the lessor. The lessee of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. The lessee shall pay a separate toll and administrative fee for each event of nonpayment. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

SECTION 29.02. Sections 228.056(b) and (c), Transportation Code, are amended to read as follows:

(b) In the prosecution of an offense under Section 228.055(c), (d-1) [~~(d)~~], or (e):

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

(2) a computer record of the department of the registered owner of the vehicle is prima facie evidence of its contents and that the defendant was the registered owner of the vehicle when the underlying event of nonpayment under Section 228.054 occurred; and

(3) a copy of the rental, lease, or other contract document, or the electronic data provided to the department under Section 228.055(d), covering the vehicle on the date of the

underlying event of nonpayment under Section 228.054 is prima facie evidence of its contents and that the defendant was the lessee of the vehicle when the underlying event of nonpayment under Section 228.054 occurred.

(c) It is a defense to prosecution under Section 228.055(c), (d-1) [~~(d)~~], or (e) that the motor vehicle in question was stolen before the failure to pay the proper toll occurred and had not been recovered before the failure to pay occurred, but only if the theft was reported to the appropriate law enforcement authority before the earlier of:

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

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

SECTION 29.03. Section 284.0701, Transportation Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) It is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle is a lessor of the vehicle and not later than the 30th day after the date the notice of nonpayment is mailed provides to the authority:

(1) a copy of the rental, lease, or other contract document covering the vehicle on the date of the nonpayment under Section 284.070, with the name and address of the lessee clearly legible; or

(2) electronic data, other than a photocopy or scan of a rental or lease contract, that contains the information required under Sections 521.460(c)(1), (2), and (3) covering the vehicle on the date of the nonpayment under Section 284.070.

(d-1) If the lessor provides the required information within the period prescribed under Subsection (d), the authority may send a notice of nonpayment to the lessee at the address provided under Subsection (d) [~~shown on the contract document~~] by first class mail before the 30th day after the date of receipt of the required information from the lessor. The lessee of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative cost within the time specified by the notice of nonpayment commits an offense. The lessee shall pay a separate toll and administrative cost for each event of nonpayment. Each failure to pay a toll or administrative cost under this subsection is a separate offense.

SECTION 29.04. Sections 284.0702(b) and (c), Transportation Code, are amended to read as follows:

(b) In the prosecution of an offense under Section 284.0701(c), (d-1) [~~(d)~~], or (e):

(1)[~~,~~] a computer record of the department of the registered owner of the vehicle is prima facie evidence of its contents and that the defendant was the registered owner of the vehicle when the underlying event of nonpayment under Section 284.070 occurred; and

(2) a copy of the rental, lease, or other contract document, or the electronic data provided to the authority under Section 284.0701(d), covering the vehicle on the date of the underlying event of nonpayment under Section 284.070 is prima facie evidence of its contents and that the defendant was the lessee of

the vehicle when the underlying event of nonpayment under Section 284.070 occurred.

(c) It is a defense to prosecution under Section 284.0701(c), (d-1) [~~(d)~~], or (e) that the vehicle in question was stolen before the failure to pay the proper toll occurred and had not been recovered before the failure to pay occurred, but only if the theft was reported to the appropriate law enforcement authority before the earlier of:

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

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

SECTION 29.05. Section 366.178, Transportation Code, is amended by amending Subsections (d), (f), and (i) and adding Subsection (i-1) to read as follows:

(d) Notice of nonpayment under Subsection (c)(1) shall be sent by first-class mail not later than the 90th day after the date of the alleged failure to pay and may not require payment of the proper toll and the administrative fee before the 30th day after the date the notice is mailed. The registered owner shall pay a separate toll and administrative fee for each nonpayment.

(f) In the prosecution of a violation for nonpayment, proof that the vehicle passed through a toll collection facility without payment of the proper toll together with proof that the defendant was the registered owner or the driver of the vehicle when the failure to pay occurred, establishes the nonpayment of the registered owner. The proof may be by testimony of a peace officer or authority employee, video surveillance, or any other reasonable evidence, including a copy of the rental, lease, or other contract

document or the electronic data provided to the authority under Subsection (i) that shows the defendant was the lessee of the vehicle when the underlying event of nonpayment occurred.

(i) A registered owner who is the lessor of a vehicle for which a notice of nonpayment has been issued is not liable if, not later than the 30th day after the date the notice of nonpayment is mailed, the registered owner provides to the authority:

(1) a copy of the rental, lease, or other contract document [~~lease agreement~~] covering the vehicle on the date of the nonpayment, with the[~~. The~~] name and address of the lessee [~~must be~~] clearly legible; or

(2) electronic data, other than a photocopy or scan of a rental or lease contract, that contains the information required under Sections 521.460(c)(1), (2), and (3) covering the vehicle on the date of the nonpayment under this section.

(i-1) If the lessor timely provides the required information under Subsection (i), the lessee of the vehicle on the date of the violation is considered to be the owner of the vehicle for purposes of this section. The lessee is subject to prosecution for failure to pay the proper toll if the authority sends a notice of nonpayment to the lessee by first-class mail not later than the 30th day after the date of the receipt of the information from the lessor.

SECTION 29.06. Section 370.177, Transportation Code, is amended by amending Subsections (e), (g), and (i) and adding Subsection (e-1) to read as follows:

(e) It is an exception to the application of Subsection (b)

or (d) that the registered owner of the vehicle is a lessor of the vehicle and not later than the 30th day after the date the notice of nonpayment is mailed provides to the authority:

(1) a copy of the rental, lease, or other contract document covering the vehicle on the date of the nonpayment under Subsection (a), with the name and address of the lessee clearly legible; or

(2) electronic data, other than a photocopy or scan of a rental or lease contract, that contains the information required under Sections 521.460(c)(1), (2), and (3) covering the vehicle on the date of the nonpayment under Subsection (a).

(e-1) If the lessor provides the required information within the period prescribed under Subsection (e), the authority may send a notice of nonpayment to the lessee at the address provided under Subsection (e) [~~shown on the contract document~~] by first class mail before the 30th day after the date of receipt of the required information from the lessor. The lessee of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. The lessee shall pay a separate toll and administrative fee for each event of nonpayment. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

(g) An offense under Subsection (d), (e-1) [~~(e)~~], or (f) is a misdemeanor punishable by a fine not to exceed $250.

(i) In the prosecution of an offense under this section,

proof that the vehicle passed through a toll collection facility without payment of the proper toll together with proof that the defendant was the registered owner or the driver of the vehicle when the failure to pay occurred, establishes the nonpayment of the registered owner. The proof may be by testimony of a peace officer or authority employee, video surveillance, or any other reasonable evidence, including:

(1) evidence obtained by automated enforcement technology that the authority determines is necessary, including automated enforcement technology described by Sections 228.058(a) and (b); or

(2) a copy of the rental, lease, or other contract document or the electronic data provided to the authority under Subsection (e) that shows the defendant was the lessee of the vehicle when the underlying event of nonpayment occurred.

ARTICLE 30. PROVISIONS APPLICABLE TO MORE THAN ONE TYPE OF TOLL PROJECT

SECTION 30.01. (a) The heading to Section 371.052, Transportation Code, as added by Chapter 264 (S.B. 792), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

Sec. 371.052. NOTIFICATION TO LEGISLATIVE BUDGET BOARD [~~AND STATE AUDITOR~~].

(b) Section 371.052(c), Transportation Code, as added by Chapter 264 (S.B. 792), Acts of the 80th Legislature, Regular Session, 2007, is repealed.

ARTICLE 31. ALLOCATION AND DISTRIBUTION OF TOLL PROJECT REVENUE AND PAYMENTS

SECTION 31.01. Section 228.006, Transportation Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The commission shall authorize the use of surplus revenue of a toll project or system to pay the costs of a transportation project, highway project, or air quality project within a region [~~department district~~] in which any part of the toll project is located.

(a-1) The department shall allocate the distribution of the surplus toll revenue to department districts in the region that are located in the boundaries of the metropolitan planning organization in which the toll project or system producing the surplus revenue is located based on the percentage of toll revenue from users in each department district of the project or system. To assist the department in determining the allocation, each entity responsible for collecting tolls for a project or system shall calculate on an annual basis the percentage of toll revenue from users of the project or system in each department district based on the number of recorded electronic toll collections.

SECTION 31.02. Section 228.012, Transportation Code, is amended to read as follows:

Sec. 228.012. PROJECT SUBACCOUNTS. (a) The department shall create a separate account in the state highway fund to hold payments received by the department under a comprehensive development agreement and[~~,~~] the surplus revenue of a toll project

or system[~~, and payments received under Sections 228.0111(g)(2) and (i)(2)~~]. The department shall create subaccounts in the account for each project, system, or region. Interest earned on money in a subaccount shall be deposited to the credit of that subaccount.

(b) The department shall hold money in a subaccount in trust for the benefit of the region in which a project or system is located and may assign the responsibility for allocating money in a subaccount to a metropolitan planning organization in which the region is located. Money [~~Except as provided by Subsection (c), money~~] shall be allocated to projects authorized by Section 228.0055 or Section 228.006, as applicable.

(c) [~~Money in a subaccount received from a county or the department under Section 228.0111 in connection with a project for which a county acting under Chapter 284 has the first option shall be allocated to transportation projects located in the county and the counties contiguous to that county.~~

[~~(d)~~] Not later than January 1 of each odd-numbered year, the department shall submit to the Legislative Budget Board, in the format prescribed by the Legislative Budget Board, a report on cash balances in the subaccounts created under this section and expenditures made with money in those subaccounts.

(d) [~~(e)~~] The commission or the department may not:

(1) revise the formula as provided in the department's unified transportation program or a successor document in a manner that results in a decrease of a department district's allocation because of the deposit of a payment into a project subaccount [~~or a commitment to undertake an additional transportation project under~~

~~Section 228.0111~~]; or

(2) take any other action that would reduce funding allocated to a department district because of the deposit of a payment [~~received from the department or local toll project entity~~] into a project subaccount [~~or a commitment to undertake an additional transportation project under Section 228.0111~~].

SECTION 31.03. Section 228.012, Transportation Code, as amended by this article, applies only to payments received by the Texas Department of Transportation under that section on or after the effective date of this Act. Payments received by the department under Section 228.012, Transportation Code, before the effective date of this Act are governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

ARTICLE 32. PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEMS

SECTION 32.01. Section 707.002, Transportation Code, is amended to read as follows:

Sec. 707.002. AUTHORITY TO PROVIDE FOR CIVIL PENALTY AND INTERSECTION SAFETY COURSE. (a) The governing body of a local authority by ordinance may implement a photographic traffic signal enforcement system and provide that the owner of a motor vehicle is liable to the local authority for a civil penalty if, while facing only a steady red signal displayed by an electrically operated traffic-control signal located in the local authority, the vehicle is operated in violation of the instructions of that traffic-control signal, as specified by Section 544.007(d).

(b) Instead of a monetary penalty, the ordinance may require

that the owner of the motor vehicle successfully complete an intersection safety course. A local authority that requires completion of an intersection safety course may:

(1) charge a fee set by the governing body of the local authority for the course; and

(2) contract with a third party to provide an intersection safety course.

SECTION 32.02. Chapter 707, Transportation Code, is amended by adding Section 707.0021 to read as follows:

Sec. 707.0021. IMPOSITION OF CIVIL PENALTY ON OWNER OF AUTHORIZED EMERGENCY VEHICLE. (a) In this section, "authorized emergency vehicle" has the meaning assigned by Section 541.201.

(b) A local authority may not impose or attempt to impose a civil penalty under this chapter on the owner of an authorized emergency vehicle.

(c) This section does not prohibit an employer from taking disciplinary action against an employee who as the operator of an authorized emergency vehicle operated the vehicle in violation of a rule or policy of the employer.

SECTION 32.03. Section 1001.002, Education Code, is amended by adding Subsection (d) to read as follows:

(d) An intersection safety course required by a local authority under Section 707.002, Transportation Code, is exempt from this chapter.

ARTICLE 33. AUTOMATIC LICENSE PLATE IDENTIFICATION CAMERAS

SECTION 33.01. Subchapter C, Chapter 202, Transportation Code, is amended by adding Section 202.062 to read as follows:

Sec. 202.062. AGREEMENT TO LOCATE CERTAIN CAMERAS ON RIGHT-OF-WAY. (a) In this section, "automatic license plate identification camera" means a camera that produces images on which optical character recognition is used to read the license plate on a vehicle.

(b) The department may enter into an agreement with the Department of Public Safety, a federal law enforcement agency, or a local law enforcement agency operating an automatic license plate identification camera under the authority of a federal law enforcement agency that authorizes the Department of Public Safety, federal law enforcement agency, or local law enforcement agency to install, maintain, and operate an automatic license plate identification camera on the right-of-way of a state highway.

(c) An agreement under this section must:

(1) be in writing;

(2) list the location of each automatic license plate identification camera to be installed on the state highway right-of-way;

(3) list the responsibilities of each party to the agreement;

(4) be for a fixed term; and

(5) be executed before an automatic license plate identification camera is installed.

(d) The images produced from an automatic license plate identification camera installed under an agreement authorized by this section may be used only for the purpose of:

(1) enforcing:

(A) a penal law of this state, other than a traffic law the violation of which is a misdemeanor punishable by fine only; or

(B) a penal law of the United States;

(2) locating:

(A) an abducted child for whom the statewide alert system authorized by Subchapter L, Chapter 411, Government Code, has been activated;

(B) a missing senior citizen for whom a statewide silver alert authorized by Subchapter M, Chapter 411, Government Code, has been activated; or

(C) a person for whom an alert has been issued under an executive order of the governor because the person has seriously injured or killed a local, state, or federal law enforcement officer; or

(3) prosecuting a criminal offense, other than a traffic law the violation of which is a misdemeanor punishable by fine only, if the images are otherwise admissible in a judicial proceeding.

(e) A person commits an offense if the person uses an automatic license plate identification camera to produce an image other than in the manner and for the purpose specified by this section.

(f) An offense under this section is a Class C misdemeanor.

ARTICLE 34. APPLICATION FOR DEALER GENERAL DISTINGUISHING NUMBER

SECTION 34.01. Section 503.029, Transportation Code, is amended by adding Subsections (d), (e), and (f) to read as follows:

(d) An applicant for an original dealer general distinguishing number who proposes to be an independent motor vehicle dealer, as specified under Subsection (a)(6)(B), and who does not hold a general distinguishing number as a franchised motor vehicle dealer or independent motor vehicle dealer, as specified under Subsection (a)(6)(A) or (B), must submit to the department evidence that the applicant completed a dealer education course, approved by the department, in the 12-month period preceding the date the application is filed. The course must be at least eight hours and not more than 12 hours in length. If the applicant is an entity, the course must be completed by one individual listed on the application as an owner.

(e) The department may approve a dealer education course under Subsection (d) only if the provider of the course:

(1) is a business with experience providing compliance education to independent motor vehicle dealers;

(2) provides online and CD-ROM versions of the course in English and in Spanish with assessment and verification capabilities;

(3) provides ongoing educational support by telephone or the Internet for one year at no additional cost to persons who have completed a course;

(4) provides at least one instructor-led dealer education course each month, including at least one instructor-led course each year in or near:

(A) Austin;

(B) Dallas and Fort Worth;

(C) El Paso;

(D) Houston; and

(E) San Antonio; and

(5) has a curriculum review panel for the course that consists of at least four independent motor vehicle dealers who hold dealer general distinguishing numbers.

(f) An applicant is not required to comply with Subsection (d) if, at the time the application is submitted, a dealer education course is not currently approved by the department.

SECTION 34.02. Section 503.029(d), Transportation Code, as added by this Act, applies only to an application for an original independent motor vehicle dealer general distinguishing number filed with the Texas Department of Transportation on or after September 1, 2010. An application filed before that date is governed by the law in effect when the application was filed, and the former law is continued in effect for that purpose.

SECTION 34.03. Not later than January 1, 2010, the Texas Department of Transportation shall begin to approve or reject applications from providers of dealer education courses under Sections 503.029(d) and (e), Transportation Code, as added by this Act.

ARTICLE 35. USE OF CERTAIN VEHICLES FOR LAW ENFORCEMENT PURPOSES

SECTION 35.01. Subdivisions (1) and (13-a), Section 541.201, Transportation Code, are amended to read as follows:

(1) "Authorized emergency vehicle" means:

(A) a fire department or police vehicle;

(B) a public or private ambulance operated by a person who has been issued a license by the Texas Department of Health;

(C) a municipal department or public service corporation emergency vehicle that has been designated or authorized by the governing body of a municipality;

(D) a private vehicle of a volunteer firefighter or a certified emergency medical services employee or volunteer when responding to a fire alarm or medical emergency;

(E) an industrial emergency response vehicle, including an industrial ambulance, when responding to an emergency, but only if the vehicle is operated in compliance with criteria in effect September 1, 1989, and established by the predecessor of the Texas Industrial Emergency Services Board of the State Firemen's and Fire Marshals' Association of Texas; [~~or~~]

(F) a vehicle of a blood bank or tissue bank, accredited or approved under the laws of this state or the United States, when making emergency deliveries of blood, drugs, medicines, or organs; or

(G) a vehicle used for law enforcement purposes that is owned or leased by a federal governmental entity.

(13-a) "Police vehicle" means a vehicle [~~of a governmental entity primarily~~] used by a peace officer, as defined by Article 2.12, Code of Criminal Procedure, for law enforcement purposes that:

(A) is owned or leased by a governmental entity;

(B) is owned or leased by the police department

of a private institution of higher education that commissions peace officers under Section 51.212, Education Code; or

(C) is:

(i) a private vehicle owned or leased by the peace officer; and

(ii) approved for use for law enforcement purposes by the head of the law enforcement agency that employs the peace officer, or by that person's designee, provided that use of the private vehicle complies with any applicable rule adopted by the commissioners court of a county under Section 170.001, Local Government Code.

SECTION 35.02. Subsection (b), Section 545.421, Transportation Code, is amended to read as follows:

(b) A signal under this section that is given by a police officer pursuing a vehicle may be by hand, voice, emergency light, or siren. The officer giving the signal must be in uniform and prominently display the officer's badge of office. The officer's vehicle must bear the insignia of a law enforcement agency, regardless of whether the vehicle displays an emergency light [~~be appropriately marked as an official police vehicle~~].

ARTICLE 36. ABANDONED AND JUNKED VEHICLES

SECTION 36.01. Section 683.071, Transportation Code, is amended to read as follows:

Sec. 683.071. DEFINITION. In this subchapter, "junked vehicle" means a vehicle that is self-propelled and:

(1) displays an expired license plate or invalid motor vehicle inspection certificate or does not display a license plate

or motor vehicle inspection certificate; and [~~have lawfully attached to it:~~

[~~(A) an unexpired license plate; and~~

[~~(B) a valid motor vehicle inspection certificate; and~~]

(2) is:

(A) wrecked, dismantled or partially dismantled, or discarded; or

(B) inoperable and has remained inoperable for more than:

(i) 72 consecutive hours, if the vehicle is on public property; or

(ii) 30 consecutive days, if the vehicle is on private property.

ARTICLE 37. AUTHORITY OF CERTAIN TRANSPORTATION AND TRANSIT AUTHORITIES TO ENFORCE COMPLIANCE WITH HIGH OCCUPANCY VEHICLE LANE RESTRICTIONS

SECTION 37.01. Subchapter B, Chapter 451, Transportation Code, is amended by adding Section 451.0615 to read as follows:

Sec. 451.0615. ENFORCEMENT OF HIGH OCCUPANCY VEHICLE LANES. (a) In this section:

(1) "Automated enforcement system" means a system that:

(A) consists of a camera or other electrical or mechanical device that produces photographic, electronic, video, or digital images of a motor vehicle; and

(B) is used to enforce compliance with

instructions for high occupancy vehicle lane restrictions.

(2) "High occupancy vehicle lane" has the meaning assigned by Section 224.151.

(3) "Official traffic-control device" has the meaning assigned by Section 541.304 and includes a traffic pylon and double white lines on a highway.

(4) "Owner of a motor vehicle" means the owner of a motor vehicle as shown on the motor vehicle registration records of the department or the analogous department or agency of another state or country.

(b) A board by resolution may implement an automated enforcement system and provide that the owner of a motor vehicle, other than an authorized emergency vehicle as defined by Section 541.201, is liable to the authority for a penalty if the vehicle is operated in violation of the instructions of an official traffic-control device regarding entering or exiting a high occupancy vehicle lane.

(b-1) A resolution adopted under Subsection (b) may not provide for the imposition of a penalty for a vehicle that is operated in violation of the minimum number of persons requirement for use of a high occupancy vehicle lane or for the purpose of enforcing compliance with posted speed limits.

(c) The resolution adopted under this section must:

(1) provide for a penalty of not more than $100;

(2) authorize an attorney employed by the authority or an attorney with whom the authority contracts to bring suit to collect the penalty;

(3) provide for notice of the violation to the owner of the motor vehicle that committed the violation;

(4) require that a peace officer commissioned by the authority:

(A) review images produced by the automated enforcement system to determine whether the vehicle was operated in violation of the instructions of an official traffic-control device regarding entering or exiting a high occupancy vehicle lane; and

(B) notarize the notice of violation before the notice is mailed to the owner of the motor vehicle that committed the violation;

(5) provide that a notice of violation is presumed to have been received on the fifth day after the date the notice is mailed if the notice was mailed to the owner of a motor vehicle;

(6) provide procedures by which the owner of the motor vehicle may request an administrative adjudication hearing to contest the imposition or the amount of the penalty;

(7) allow for the use of images produced by the automated enforcement system authorized by this section; and

(8) provide for other procedures the board determines are necessary for the imposition of a penalty authorized by this section.

(d) Except as provided by Subsection (e), an image produced by an automated enforcement system may not be used to prosecute a criminal offense.

(e) An image produced by an automated enforcement system may be used to prosecute a criminal offense defined by Chapter 19, 20,

20A, 31, 38, or 49, Penal Code.

(f) This section does not apply to an authority in which the principal municipality has a population of more than 1.9 million.

SECTION 37.02. Subchapter B, Chapter 452, Transportation Code, is amended by adding Section 452.0615 to read as follows:

Sec. 452.0615. ENFORCEMENT OF HIGH OCCUPANCY VEHICLE LANES. (a) In this section:

(1) "Automated enforcement system" means a system that:

(A) consists of a camera or other electrical or mechanical device that produces photographic, electronic, video, or digital images of a motor vehicle; and

(B) is used to enforce compliance with instructions for high occupancy vehicle lane restrictions.

(2) "High occupancy vehicle lane" has the meaning assigned by Section 224.151.

(3) "Official traffic-control device" has the meaning assigned by Section 541.304 and includes a traffic pylon and double white lines on a highway.

(4) "Owner of a motor vehicle" means the owner of a motor vehicle as shown on the motor vehicle registration records of the department or the analogous department or agency of another state or country.

(b) This section applies only to an authority that:

(1) consists of one subregion governed by a subregional board created under Subchapter O; and

(2) has entered into an agreement with a governmental

entity to:

(A) operate a high occupancy vehicle lane; or

(B) provide peace officers to enforce compliance with instructions for high occupancy vehicle lane restrictions.

(c) A board by resolution may implement an automated enforcement system and provide that the owner of a motor vehicle, other than an authorized emergency vehicle as defined by Section 541.201, is liable to the authority for a penalty if the vehicle is operated in violation of the instructions of an official traffic-control device regarding entering or exiting a high occupancy vehicle lane.

(c-1) A resolution adopted under Subsection (c) may not provide for the imposition of a penalty for a vehicle that is operated in violation of the minimum number of persons requirement for use of a high occupancy vehicle lane or for the purpose of enforcing compliance with posted speed limits.

(d) The resolution adopted under this section must:

(1) provide for a penalty of not more than $100;

(2) authorize an attorney employed by the authority or an attorney with whom the authority contracts to bring suit to collect the penalty;

(3) provide for notice of the violation to the owner of the motor vehicle that committed the violation;

(4) require that a peace officer commissioned by the authority:

(A) review images produced by the automated enforcement system to determine whether the vehicle was operated in

violation of the instructions of an official traffic-control device regarding entering or exiting a high occupancy vehicle lane; and

(B) notarize the notice of violation before the notice is mailed to the owner of the motor vehicle that committed the violation;

(5) provide that a notice of violation is presumed to have been received on the fifth day after the date the notice is mailed if the notice was mailed to the owner of a motor vehicle;

(6) provide procedures by which the owner of the motor vehicle may request an administrative adjudication hearing to contest the imposition or the amount of the penalty;

(7) allow for the use of images produced by the automated enforcement system authorized by this section; and

(8) provide for other procedures the board determines are necessary for the imposition of a penalty authorized by this section.

(e) Except as provided by Subsection (f), an image produced by an automated enforcement system may not be used to prosecute a criminal offense.

(f) An image produced by an automated enforcement system may be used to prosecute a criminal offense defined by Chapter 19, 20, 20A, 31, 38, or 49, Penal Code.

ARTICLE 38. REGIONAL TOLLWAY AUTHORITIES

SECTION 38.01. (a) Section 366.038, Transportation Code, is amended to read as follows:

Sec. 366.038. TOLLING SERVICES [~~TOLL COLLECTION~~]. (a) In this section, "tolling services" means the tolling services

normally provided through an authority's customer service center, including customer service, customer account maintenance, transponder supply, and toll collection and enforcement.

(b) An authority shall provide, for reasonable compensation, tolling [~~customer service and other toll collection and enforcement~~] services for a toll project in the boundaries of the authority, regardless of whether the toll project is developed, financed, constructed, and operated under an agreement, including a comprehensive development agreement, with the authority or another entity. This section does not restrict an authority from agreeing to provide additional tolling services in an agreement described in Subsection (d). Additional tolling services provided under an agreement under that subsection are subject to the provisions that apply to tolling services under this section.

(c) An authority may not provide financial security, including a cash collateral account, for the performance of tolling services the authority provides under this section if:

(1) the authority determines that providing security could restrict the amount, or increase the cost, of bonds or other debt obligations the authority may subsequently issue under this chapter; or

(2) the authority is not reimbursed its cost of providing the security.

(d) Before providing tolling services for a toll project under this section, an authority must enter into a written agreement that sets out the terms and conditions for the tolling services to be provided and the terms of compensation for those

services.

(e) Toll revenues are the property of the entity that is entitled to the revenues under a tolling services agreement for the toll project, regardless of who holds or collects the revenues. Toll revenues that are held or collected by an authority under a tolling services agreement and are not the property of the authority are not subject to a claim adverse to the authority or a lien on or encumbrance against property of the authority. Toll revenues that are the property of the authority are not subject to a claim adverse to any other entity or a lien on or encumbrance against property of any other entity.

(f) An authority may agree in a tolling services agreement that its right and obligation to provide tolling services for the applicable toll project under this section are subject to termination for default, and that after a termination for default this section does not apply to that toll project.

(g) Any public or private entity, including an authority or the department, may agree to fund a cash collateral account for the purpose of providing money that may be withdrawn as provided in the tolling services agreement because of an authority's failure to make any payment as required by the tolling services agreement. An authority's written commitment to fully or partially fund a cash collateral account is conclusive evidence of the authority's determination that the commitment does not violate Subsection (c). The department may use money from any available source to fund a cash collateral account under this subsection.

(b) Subsection (c), Section 366.038, Transportation Code,

as added by this section, does not apply to any project, or portion of any project, subject to the tolling services agreement between the North Texas Tollway Authority and the Texas Department of Transportation or a private participant in a comprehensive development agreement for the North Tarrant Express project in Tarrant County or the tolling services agreement for the IH-635 managed lanes project in Dallas County if the agreement is entered into before September 1, 2009.

SECTION 38.02. Section 366.185, Transportation Code, is amended by adding Subsection (d-2) to read as follows:

(d-2) Notwithstanding Subsection (d-1), if the contract amount exceeds $50 million, the rules adopted under Subsection (d) may provide for a stipend to be offered to an unsuccessful design-build firm that submits a response to the authority's request for additional information, in an amount that:

(1) may exceed $250,000; and

(2) is reasonably necessary, as determined by the authority in its sole discretion, to compensate an unsuccessful firm for:

(A) preliminary engineering costs associated with the development of the proposal by the firm; and

(B) the value of the work product contained in the proposal, including the techniques, methods, processes, and information contained in the proposal.

SECTION 38.03. Section 366.303, Transportation Code, is amended by amending Subsection (d) and adding Subsections (f) and (g) to read as follows:

(d) The term of an agreement under Subsections (a)-(c) [~~this section~~] may not exceed 40 years.

(f) To accelerate a toll project's design, financing, construction, and operation by the entity ultimately responsible for the toll project's design, financing, construction, and operation, a county that is part of an authority, including a county acting under Chapter 284, may acquire right-of-way necessary to locate and preserve the proposed alignment for a potential toll project, and may obtain the environmental approvals, any necessary traffic and revenue studies, and any engineering data necessary to advance the feasibility of a potential toll project. For purposes of this subsection and Subsection (g), "toll project" includes:

(1) a project, as defined by Section 284.001;

(2) a turnpike project, as defined for this chapter; or

(3) any similar project consisting of one or more tolled lanes of a bridge, tunnel, or highway or an entire toll bridge, tunnel, or highway, and any improvement, extension, or expansion to the bridge, tunnel, or highway.

(g) A county that acquires right-of-way or obtains approvals, studies, or data under Subsection (f) may petition the applicable authority to negotiate a written agreement by which the county's and the authority's activities can be better coordinated and more efficiently accomplished. The agreement may include provisions by which the authority may agree to later reimburse the county for certain costs the county incurs for right-of-way and other deliverables transferred to and used by the authority if the

authority ultimately develops the toll project. The department or the applicable metropolitan planning organization, or both, may be a party or parties to an agreement under this subsection if the county and the authority determine that the inclusion of one or both of those entities furthers the objectives of this subsection.

ARTICLE 39. AUTOMATED TRAFFIC CONTROL SYSTEMS

SECTION 39.01. Section 542.2035, Transportation Code, is amended to read as follows:

Sec. 542.2035. LIMITATION ON MUNICIPALITIES AND COUNTIES. (a) A municipality or county may not implement or operate an automated traffic control system with respect to a highway or street under its jurisdiction for the purpose of enforcing compliance with posted speed limits. The attorney general shall enforce this subsection.

(b) In this section, "automated traffic control system" means a photographic device, radar device, laser device, or other electrical or mechanical device designed to:

(1) record the speed of a motor vehicle; and

(2) obtain one or more photographs or other recorded images of:

(A) the vehicle;

(B) the license plate attached to the vehicle; or

(C) the operator of the vehicle.

SECTION 39.02. Subchapter B, Chapter 542, Transportation Code, is amended by adding Section 542.207 to read as follows:

Sec. 542.207. LIMITATION ON DEPARTMENT. (a) In this section, "automated traffic control system" has the meaning

assigned by Section 542.2035.

(b) The department may not implement or operate an automated traffic control system for the purpose of enforcing compliance with posted speed limits. The attorney general shall enforce this section.

ARTICLE 40. CERTIFICATES OF TITLE; VEHICLE REGISTRATION

SECTION 40.001. Section 501.002, Transportation Code, is amended to read as follows:

Sec. 501.002. DEFINITIONS. In this chapter:

(1) "Certificate of title" means a printed record of title [~~an instrument~~] issued under Section 501.021.

(1-a) "Commercial fleet" means a group of at least 25 nonapportioned commercial motor vehicles owned by a corporation, limited or general partnership, limited liability company, or other business entity and used for the business purposes of that entity.

(2) "Credit card" means a card, plate, or similar device used to make a purchase or to borrow money.

(3) "Dealer" has the meaning assigned by Section 503.001 [~~means a person who purchases motor vehicles for sale at retail~~].

(4) "Debit card" means a card that enables the holder to withdraw money or to have the cost of a purchase charged directly to the holder's bank account.

(5) [~~(3)~~] "Department" means the Texas Department of Transportation.

(6) [~~(4)~~] "Distributor" has the meaning assigned by Chapter 2301, Occupations Code [~~means a person engaged in the~~

~~business of selling to a dealer motor vehicles purchased from a manufacturer~~].

(7) [~~(5)~~] "First sale" means:

(A) the bargain, sale, transfer, or delivery of a motor vehicle that has not been previously registered or titled [~~licensed~~], with intent to pass an interest in the motor vehicle, other than a lien, regardless of where the bargain, sale, transfer, or delivery occurred; and

(B) the registration or titling [~~licensing~~] of that vehicle.

[~~(6) "House trailer" means a trailer designed for human habitation. The term does not include manufactured housing.~~

[~~(7) "Importer" means a person, other than a manufacturer, that brings a used motor vehicle into this state for sale in this state.~~]

(8) [~~"Importer's certificate" means a certificate for a used motor vehicle brought into this state for sale in this state.~~

[~~(9)~~] "Lien" means:

(A) a lien provided for by the constitution or statute in a motor vehicle;

(B) a security interest, as defined by Section 1.201, Business & Commerce Code, in a motor vehicle, other than an absolute title, created by any written security agreement, as defined by Section 9.102, Business & Commerce Code, including a lease, conditional sales contract, deed of trust, chattel mortgage, trust receipt, or reservation of title; or

(C) a child support lien under Chapter 157,

Family Code.

(9) [~~(10)~~] "Manufactured housing" has the meaning assigned by Chapter 1201, Occupations Code.

(10) [~~(11)~~] "Manufacturer" has the meaning assigned by Section 503.001 [~~means a person regularly engaged in the business of manufacturing or assembling new motor vehicles~~].

(11) [~~(12) "Manufacturer's permanent vehicle identification number" means the number affixed by the manufacturer to a motor vehicle in a manner and place easily accessible for physical examination and die-stamped or otherwise permanently affixed on one or more removable parts of the vehicle.~~

[~~(13)~~] "Motorcycle" has the meaning assigned by Section 541.201 [~~means a motor vehicle, other than a tractor, designed to propel itself with not more than three wheels in contact with the ground~~].

(12) [~~(14)~~] "Motor vehicle" means:

(A) any motor driven or propelled vehicle required to be registered under the laws of this state;

(B) a trailer or semitrailer, other than manufactured housing, that has a gross vehicle weight that exceeds 4,000 pounds;

(C) a travel [~~house~~] trailer;

(D) an all-terrain vehicle, as defined by Section 502.001, designed by the manufacturer for off-highway use that is not required to be registered under the laws of this state; or

(E) a motorcycle, motor-driven cycle, or moped that is not required to be registered under the laws of this state

[~~, other than a motorcycle, motor-driven cycle, or moped designed for and used exclusively on a golf course~~].

(13) [~~(15)~~] "New motor vehicle" has the meaning assigned by Chapter 2301, Occupations Code [~~means a motor vehicle that has not been the subject of a first sale~~].

(14) [~~(16)~~] "Owner" includes a person, other than a manufacturer, importer, distributor, or dealer, claiming title to or having a right to operate under a lien a motor vehicle that has been subject to a first sale.

(15) "Purchaser" means a person or entity, other than a manufacturer, importer, distributor, or dealer, to which a motor vehicle is donated, given, sold, or otherwise transferred.

(16) "Record of title" means an electronic record of motor vehicle ownership in the department's motor vehicle database that is created under Subchapter I.

(17) "Seller" means a person or entity that donates, gives, sells, or otherwise transfers ownership of a motor vehicle.

(18) [~~(17)~~] "Semitrailer" means a vehicle that is designed or used with a motor vehicle so that part of the weight of the vehicle and its load rests on or is carried by another vehicle.

[~~(18) "Serial number" means a vehicle identification number that is affixed to a part of a motor vehicle and that is:~~

[~~(A) the manufacturer's permanent vehicle identification number;~~

[~~(B) a derivative number of the manufacturer's permanent vehicle identification number;~~

[~~(C) the motor number; or~~

[~~(D) the vehicle identification number assigned by the department.~~]

(19) "Steal" has the meaning assigned by Section 31.01, Penal Code.

(20) "Subsequent sale" means:

(A) the bargain, sale, transfer, or delivery of a used motor vehicle [~~that has been previously registered or licensed in this state or elsewhere~~], with intent to pass an interest in the vehicle, other than a lien [~~, regardless of where the bargain, sale, transfer, or delivery occurs~~]; and

(B) the registration of the vehicle if registration is required under the laws of this state.

(21) "Title receipt" means a document [~~an instrument~~] issued under Section 501.024.

(22) "Trailer" means a vehicle that:

(A) is designed or used to carry a load wholly on the trailer's own structure; and

(B) is drawn or designed to be drawn by a motor vehicle.

(23) "Travel trailer" means a house trailer-type vehicle or a camper trailer:

(A) that is a recreational vehicle defined under 24 C.F.R. Section 3282.8(g); or

(B) that:

(i) is less than 8 feet in width and 40 feet in length, exclusive of any hitch installed on the vehicle;

(ii) is designed primarily for use as

temporary living quarters in connection with recreational, camping, travel, or seasonal use;

(iii) is not used as a permanent dwelling; and

(iv) is not a utility trailer, enclosed trailer, or other trailer that does not have human habitation as its primary function.

(24) [~~(23)~~] "Used motor vehicle" means a motor vehicle that has been the subject of a first sale.

(25) "Vehicle identification number" means:

(A) the manufacturer's permanent vehicle identification number affixed by the manufacturer to the motor vehicle that is easily accessible for physical examination and permanently affixed on one or more removable parts of the vehicle; or

(B) a serial number affixed to a part of a motor vehicle that is:

(i) a derivative number of the manufacturer's permanent vehicle identification number;

(ii) the motor number; or

(iii) a vehicle identification number assigned by the department.

SECTION 40.002. The heading to Section 501.003, Transportation Code, is amended to read as follows:

Sec. 501.003. PURPOSE [~~CONSTRUCTION~~].

SECTION 40.003. Section 501.004(a), Transportation Code, is amended to read as follows:

(a) Except as provided by this section, this [~~This~~] chapter applies to all motor vehicles, including a motor vehicle owned by the state or a political subdivision of the state.

SECTION 40.004. Section 501.131, Transportation Code, is transferred to Subchapter A, Chapter 501, Transportation Code, renumbered as Section 501.0041, Transportation Code, and amended to read as follows:

Sec. 501.0041 [~~501.131~~]. RULES; FORMS. (a) The department may adopt rules to administer this chapter.

(b) The department shall post on the Internet or[~~:~~

[~~(1) in addition to the forms required by this chapter, prescribe forms for a title receipt, manufacturer's certificate, and importer's certificate, and other forms the department determines necessary; and~~

[~~(2)~~] provide each county assessor-collector with a sufficient supply of any necessary [~~the~~] forms.

SECTION 40.005. Section 501.159, Transportation Code, is transferred to Subchapter A, Chapter 501, Transportation Code, renumbered as Section 501.006, Transportation Code, and amended to read as follows:

Sec. 501.006 [~~501.159~~]. ALIAS [~~CERTIFICATE OF~~] TITLE. On receipt of a verified [~~written~~] request approved by the executive administrator of a law enforcement agency, the department may issue a [~~certificate of~~] title in the form requested by the executive administrator for a vehicle in an alias for the law enforcement agency's use in a covert criminal investigation.

SECTION 40.006. Section 501.021, Transportation Code, is

amended to read as follows:

Sec. 501.021. [~~CERTIFICATE OF~~] TITLE FOR MOTOR VEHICLE. (a) A motor vehicle [~~certificate of~~] title [~~is an instrument~~] issued by the department must include [~~that includes~~]:

(1) the name and address of each [~~the~~] purchaser and seller at the first sale or [~~the transferee and transferor at~~] a subsequent sale;

(2) the [~~make of the motor~~] vehicle description;

(3) the [~~body type of the vehicle;~~

[~~(4) the manufacturer's permanent vehicle identification number of the vehicle or the vehicle's motor number if the vehicle was manufactured before the date that stamping a permanent identification number on a motor vehicle was universally adopted;~~

[~~(5) the serial number for the vehicle;~~

[~~(6) the number on the vehicle's current Texas license plates, if any;~~

[~~(7) a statement:~~

[~~(A) that no lien on the vehicle is recorded; or~~

[~~(B) of the~~] name and address of each lienholder and the date of each lien on the vehicle, listed in the chronological order in which the lien was recorded;

(4) [~~(8) a space for the signature of the owner of the vehicle;~~

[~~(9)~~] a statement indicating rights of survivorship under Section 501.031;

(5) [~~(10)~~] if the vehicle has an odometer, the

odometer reading [~~indicated by the application for the certificate of title~~]; and

(6) [~~(11)~~] any other information required by the department.

(b) A printed certificate of title must bear the following statement on its face:

"UNLESS OTHERWISE AUTHORIZED BY LAW, IT IS A VIOLATION OF STATE LAW TO SIGN THE NAME OF ANOTHER PERSON ON A CERTIFICATE OF TITLE OR OTHERWISE GIVE FALSE INFORMATION ON A CERTIFICATE OF TITLE."

SECTION 40.007. Section 501.022, Transportation Code, is amended to read as follows:

Sec. 501.022. MOTOR VEHICLE [~~CERTIFICATE OF~~] TITLE REQUIRED. (a) The owner of a motor vehicle registered in this state may not operate or permit the operation of the vehicle on a public highway until the owner obtains a [~~certificate of~~] title for the vehicle or until the owner obtains registration for the vehicle if a receipt evidencing title to the vehicle is issued under Section 501.029(b) or Subchapter I.

(b) A person may not operate a motor vehicle registered in this state on a public highway if the person knows or has reason to believe that the owner has not obtained a [~~certificate of~~] title for the vehicle.

(c) The owner of a motor vehicle that is required to be registered in this state must apply for a [~~certificate of~~] title to [~~of~~] the vehicle before selling or disposing of the vehicle.

(d) Subsection (c) does not apply to a motor vehicle operated on a public highway in this state with a metal dealer's

license plate or a dealer's or buyer's temporary [~~cardboard~~] tag attached to the vehicle as provided by Chapter 503.

SECTION 40.008. Section 501.023, Transportation Code, is amended to read as follows:

Sec. 501.023. APPLICATION FOR [~~CERTIFICATE OF~~] TITLE. (a) The owner of a motor vehicle must apply for a [~~certificate of~~] title as prescribed by the department [~~:~~

[~~(1)~~] to the county assessor-collector in the county in which:

(1) [~~(A)~~] the owner is domiciled; or

(2) [~~(B)~~] the motor vehicle is purchased or encumbered [~~; and~~

[~~(2) on a form prescribed by the department~~].

(b) The assessor-collector shall send the application to the department or enter it into the department's titling system within 72 [~~not later than 24~~] hours after receipt of [~~receiving~~] the application.

(c) The owner or a lessee of a commercial motor vehicle operating under the International Registration Plan or other agreement described by Section 502.091 [~~502.054~~] that is applying for a [~~certificate of~~] title for purposes of registration only may apply [~~must be made~~] directly to the department. Notwithstanding Section 501.138(a), an applicant for registration under this subsection shall pay [~~the department~~] the fee imposed by that section. The [~~department shall send the~~] fee shall be distributed to the appropriate county assessor-collector [~~for distribution~~] in the manner provided by Section 501.138.

(d) Applications submitted to the department electronically must request the purchaser's choice of county as stated in Subsection (a) as the recipient of all taxes, fees, and other revenue collected as a result of the transaction.

SECTION 40.009. (a) Effective September 1, 2009, Section 501.0234(b), Transportation Code, is amended to read as follows:

(b) This section does not apply to a motor vehicle:

(1) that has been declared a total loss by an insurance company in the settlement or adjustment of a claim;

(2) for which the certificate of title has been surrendered in exchange for:

(A) a salvage vehicle title issued under this chapter;

(B) a nonrepairable vehicle title issued under this chapter;

(C) a certificate of authority issued under Subchapter D, Chapter 683; or

(D) an ownership document issued by another state that is comparable to a document described by Paragraphs (A)-(C); [~~or~~]

(3) with a gross weight in excess of 11,000 pounds; or

(4) purchased by a fleet buyer who is a full-service deputy under Section 520.008 and utilizes the dealer title application process developed to provide a method of submitting title transactions to the county in which the fleet buyer is a full-service deputy.

(b) Effective January 1, 2013, Sections 501.0234(a), (b),

(d), and (e), Transportation Code, are amended to read as follows:

(a) A person who sells at the first or a subsequent sale a motor vehicle and who holds a general distinguishing number issued under Chapter 503 of this code or Chapter 2301, Occupations Code, shall:

(1) except as provided by this section, in the time and manner provided by law, apply, in the name of the purchaser of the vehicle, for the registration of the vehicle, if the vehicle is to be registered, and a [~~certificate of~~] title for the vehicle and file with the appropriate designated agent each document necessary to transfer title to or register the vehicle; and at the same time

(2) remit any required motor vehicle sales tax.

(b) This section does not apply to a motor vehicle:

(1) that has been declared a total loss by an insurance company in the settlement or adjustment of a claim;

(2) for which the [~~certificate of~~] title has been surrendered in exchange for:

(A) a salvage vehicle title or salvage record of title issued under this chapter;

(B) a nonrepairable vehicle title or nonrepairable record of title issued under this chapter or Subchapter D, Chapter 683;

[~~(C) a certificate of authority issued under Subchapter D, Chapter 683;~~] or

(C) [~~(D)~~] an ownership document issued by another state that is comparable to a document described by Paragraph (A) or (B) [~~Paragraphs (A)-(C)~~]; [~~or~~]

(3) with a gross weight in excess of 11,000 pounds; or

(4) purchased by a fleet buyer who utilizes the dealer title application process developed to provide a method to submit title transactions to counties that have approved the persons as full-service deputies under Section 502.114.

(d) A seller who applies for the registration or a [~~certificate of~~] title for a motor vehicle under Subsection (a)(1) shall apply in the county as directed by the purchaser from the counties set forth in Section 501.023 [~~of this code~~].

(e) The department shall develop [~~promulgate~~] a form or electronic process in [~~on~~] which the purchaser of a motor vehicle shall designate the purchaser's choice as set out in Section 501.023 as the recipient of all taxes, fees, and other revenue collected as a result of the transaction, which the tax assessor-collector is authorized by law to retain. A seller shall make that form or electronic process available to the purchaser of a vehicle at the time of purchase.

SECTION 40.010. Section 501.0235, Transportation Code, is amended to read as follows:

Sec. 501.0235. DRIVER'S LICENSE OR PERSONAL IDENTIFICATION CERTIFICATE [~~SOCIAL SECURITY~~] NUMBER OF TITLE APPLICANT[~~; AUTOMATED REGISTRATION AND TITLE SYSTEM~~]. (a) The department shall require an applicant for a [~~certificate of~~] title to provide the applicant's driver's license or personal identification certificate [~~social security~~] number to the department.

(b) The [~~department or the county shall enter the applicant's social security~~] number shall be entered in the

department's electronic titling system [~~database~~] but may not be printed [~~print that number~~] on the [~~certificate of~~] title.

[~~(c) This section applies only in a county in which the department's automated registration and title system has been implemented.~~]

SECTION 40.011. Section 501.024, Transportation Code, is amended to read as follows:

Sec. 501.024. TITLE RECEIPT. (a) A county assessor-collector who receives an application for a [~~certificate of~~] title shall issue a title receipt to the applicant containing the information concerning the motor vehicle required for issuance of a title under Section 501.021 or Subchapter I [~~,~~] after:

(1) the requirements of this chapter are met, including the payment of the fees required under Section 501.138; and

(2) the [~~, issue a title receipt on which is noted~~] information is entered into the department's titling system [~~concerning the motor vehicle required for the certificate of title under Section 501.021, including a statement of the existence of each lien as disclosed on the application or a statement that no lien is disclosed~~].

(b) If a lien is not disclosed on the application for a [~~certificate of~~] title, the assessor-collector shall issue a [~~mark the~~] title receipt [~~"original" and deliver it~~] to the applicant.

(c) If a lien is disclosed on the application for a [~~certificate of~~] title, the assessor-collector shall issue a duplicate title receipt to the lienholder [~~receipts. The~~

~~assessor-collector shall:~~

[~~(1) mark one receipt "original" and mail or deliver it to the first lienholder disclosed on the application; and~~

[~~(2) mark the second receipt "duplicate original" and mail or deliver it to the address of the applicant provided on the application~~].

(d) A title receipt authorizes the operation of the motor vehicle on a public highway in this state for 10 days or until the [~~certificate of~~] title is issued, whichever period is shorter.

SECTION 40.012. Section 501.025, Transportation Code, is amended to read as follows:

Sec. 501.025. [~~TITLE RECEIPT REQUIRED ON FIRST SALE;~~] MANUFACTURER'S CERTIFICATE REQUIRED ON FIRST SALE. A county assessor-collector may not issue a title receipt on the first sale of a motor vehicle unless the applicant for the [~~certificate of~~] title provides [~~to the assessor-collector~~] the application for a [~~certificate of~~] title and a manufacturer's certificate in [~~, on~~] a manner [~~form~~] prescribed by the department [~~, that:~~

[~~(1) is assigned to the applicant by the manufacturer, distributor, or dealer shown on the manufacturer's certificate as the last transferee; and~~

[~~(2) shows the transfer of the vehicle from its manufacturer to the purchaser, whether a distributor, dealer, or owner, and each subsequent transfer from distributor to dealer, dealer to dealer, and dealer to applicant~~].

SECTION 40.013. Section 501.027, Transportation Code, is amended to read as follows:

Sec. 501.027. ISSUANCE OF [~~CERTIFICATE OF~~] TITLE. (a) On the day that a county assessor-collector issues a title receipt, a copy of the title receipt and all evidence of title [~~the assessor-collector~~] shall be submitted [~~mail~~] to the department in the period specified in Section 501.023(b) [~~:~~

[~~(1) a copy of the receipt; and~~

[~~(2) the evidence of title delivered to the assessor-collector by the applicant~~].

(b) Not later than the fifth day after the date the department receives an application for a [~~certificate of~~] title and the department determines the requirements of this chapter are met:

(1) the [~~, the department shall issue the certificate of~~] title shall be issued to the first lienholder or to the applicant if [~~. If~~] a lien is not disclosed on the application; or

(2) [~~,~~] the department shall notify [~~send the certificate by first class mail to~~] the applicant that the department's titling system has established a record of title of the motor vehicle in the applicant's name if a lien is not disclosed [~~at the address provided on the application~~]. If a lien is disclosed on the application, the department shall notify [~~send~~] the [~~certificate by first class mail to the first~~] lienholder that the lien has been perfected [~~as disclosed on the application~~].

SECTION 40.014. Section 501.0275, Transportation Code, is amended to read as follows:

Sec. 501.0275. ISSUANCE OF TITLE FOR UNREGISTERED VEHICLE. (a) The department shall issue a [~~certificate of~~] title for a motor vehicle that complies with the other requirements [~~for issuance of~~

~~a certificate of title~~] under this chapter except that:

(1) the vehicle is not registered for a reason other than a reason provided by Section 501.051(a)(6) [~~501.051(6)~~]; and

(2) the applicant does not provide evidence of financial responsibility that complies with Section 502.046 [~~502.153~~].

(b) On application for a [~~certificate of~~] title under this section, the applicant must surrender any license plates issued for the motor vehicle if the plates are not being transferred to another vehicle and any registration insignia for validation of those plates to the department.

SECTION 40.015. Section 501.0276, Transportation Code, is amended to read as follows:

Sec. 501.0276. DENIAL OF TITLE RECEIPT, [~~OR CERTIFICATE OF~~] TITLE, OR RECORD OF TITLE FOR FAILURE TO PROVIDE PROOF OF EMISSIONS TESTING. A county assessor-collector may not issue a title receipt and the department may not issue a certificate of title for a vehicle subject to Section 548.3011 unless proof that the vehicle has passed a vehicle emissions test as required by that section, in a manner [~~form~~] authorized by that section, is presented to the county assessor-collector with the application for a [~~certificate of~~] title.

SECTION 40.016. Section 501.029, Transportation Code, is amended to read as follows:

Sec. 501.029. ACCEPTABLE PROOF OF OWNERSHIP [~~USE OF REGISTRATION RECEIPT OR TITLE RECEIPT TO EVIDENCE TITLE~~]. (a) A person may use the department's record of title, a registration

receipt issued under Chapter 502, or a title receipt to evidence ownership of [~~title to~~] a motor vehicle but [~~and~~] not to transfer an interest in or establish a lien on the vehicle.

(b) The department by rule may provide for the issuance of a receipt that evidences title to a motor vehicle for registration purposes only. The fee for application for the receipt is the fee applicable to application for a [~~certificate of~~] title.

SECTION 40.017. Sections 501.030(b), (d), (e), (f), and (g), Transportation Code, are amended to read as follows:

(b) Before a motor vehicle that was not manufactured for sale or distribution in the United States may be titled in this state, the applicant must:

(1) provide to the assessor-collector:

(A) a bond release letter, with all attachments, issued by the United States Department of Transportation acknowledging:

(i) receipt of a statement of compliance submitted by the importer of the vehicle; and

(ii) that the statement meets the safety requirements of 19 C.F.R. Section 12.80(e);

(B) a bond release letter, with all attachments, issued by the United States Environmental Protection Agency stating that the vehicle has been tested and shown to conform to federal emission requirements; and

(C) a receipt or certificate issued by the United States Department of the Treasury showing that all gas guzzler taxes due on the vehicle under 26 U.S.C. Section 4064(a) have been

paid; or

(2) provide to the assessor-collector proof, satisfactory to the department, [~~assessor-collector~~] that the vehicle was not brought into the United States from outside [~~of~~] the country.

(d) If a motor vehicle has not been titled or registered in the United States, the application for [~~certificate of~~] title must be accompanied by:

(1) a manufacturer's certificate of origin written in English issued by the vehicle manufacturer;

(2) the original documents that constitute valid proof of ownership in the country where the vehicle was originally purchased, with an English translation of the documents verified as to the accuracy of the translation by an affidavit of the translator; or

(3) if the vehicle was imported from a country that cancels the vehicle registration and title for export, the documents assigned to the vehicle after the registration and title were canceled, with an English translation of the documents verified as to the accuracy of the translation by an affidavit of the translator.

(e) Before a motor vehicle that is required to be registered in this state and that is brought into this state by a person other than a manufacturer or importer may be bargained, sold, transferred, or delivered with an intent to pass an interest in the vehicle or encumbered by a lien, the owner must apply for a [~~certificate of~~] title in [~~on~~] a manner [~~form~~] prescribed by the

department to the county assessor-collector for the county in which the transaction is to take place. The assessor-collector may not issue a title receipt unless the applicant delivers to the assessor-collector satisfactory evidence [~~of title~~] showing that the applicant is the owner of the vehicle and that the vehicle is free of any undisclosed liens.

(f) A county assessor-collector may not be held liable for civil damages arising out of the assessor-collector's failure to reflect on the title receipt a lien or encumbrance on a motor vehicle to which Subsection (e) applies unless the [~~assessor-collector's~~] failure constitutes wilful or wanton negligence.

(g) Until an applicant has complied with this section:

(1) a county assessor-collector may not accept an application for [~~certificate of~~] title; and

(2) the applicant is not entitled to an appeal as provided by Sections 501.052 and 501.053.

SECTION 40.018. Section 501.031, Transportation Code, is amended to read as follows:

Sec. 501.031. RIGHTS OF SURVIVORSHIP AGREEMENT. (a) The department shall include on each [~~certificate of~~] title an optional [~~a~~] rights of survivorship agreement that [~~form. The form must~~]:

(1) provides [~~provide~~] that if the agreement is between [~~signed by~~] two or more eligible persons, the motor vehicle is held jointly by those persons with the interest of a person who dies to transfer [~~survive~~] to the surviving person or persons; and

(2) provides [~~provide blanks~~] for the acknowledgment

by signature, either electronically or by hand, [~~signatures~~] of the persons.

(b) If the vehicle is registered in the name of one or more of the persons who acknowledged [~~signed~~] the agreement, the [~~certificate of~~] title may contain a:

(1) rights of survivorship agreement acknowledged [~~signed~~] by all the persons; or

(2) remark if a rights of survivorship agreement is [~~surrendered with the application for certificate of title or otherwise~~] on file with the department.

(c) Ownership [~~Except as provided in Subsection (g), ownership~~] of the vehicle may be transferred only:

(1) by all the persons acting jointly, if all the persons are alive; and

(2) on the death of one of the persons by the surviving person or persons by transferring ownership of the vehicle [~~the certificate of title~~], in the manner otherwise required by law [~~for transfer of ownership of the vehicle~~], with a copy of the death certificate of the deceased person [~~attached to the certificate of title application~~].

(d) A rights of survivorship agreement under this section may be revoked only if [~~by surrender of the certificate of title to the department and joint application by~~] the persons named in [~~who signed~~] the agreement file a joint application for a new title in the name of the person or persons designated in the application.

(e) A person is eligible to file [~~sign~~] a rights of survivorship agreement under this section if the person:

(1) is married and the spouse of the [~~signing~~] person is the only other party to the agreement;

(2) is unmarried and attests to that unmarried status by affidavit; or

(3) is married and provides the department with an affidavit from the [~~signing~~] person's spouse that attests that the [~~signing~~] person's interest in the vehicle is the [~~signing~~] person's separate property.

(f) The department may develop an optional electronic [~~If the title is being issued in connection with the sale of the vehicle, the seller is not eligible to sign a~~] rights of survivorship agreement for public use [~~under this section unless the seller is the child, grandchild, parent, grandparent, brother, or sister of each other person signing the agreement. A family relationship required by this subsection may be a relationship established by adoption.~~

[~~(g) If an agreement, other than the agreement provided for in Subsection (a), providing for right of survivorship is signed by two or more persons, the department shall issue a new certificate of title to the surviving person or persons upon application accompanied by a copy of the death certificate of the deceased person. The department may develop for public use under this subsection an optional rights of survivorship agreement form~~].

SECTION 40.019. Section 501.032, Transportation Code, is amended to read as follows:

Sec. 501.032. ASSIGNMENT OF VEHICLE IDENTIFICATION [~~SERIAL~~] NUMBER BY DEPARTMENT. (a) On proper application, the

department shall assign a vehicle identification [~~a serial~~] number to a travel [~~house~~] trailer, a trailer or semitrailer that has a gross vehicle weight that exceeds 4,000 pounds, or an item of equipment, including a tractor, farm implement, unit of special mobile equipment, or unit of off-road construction equipment on which:

(1) a vehicle identification [~~a serial~~] number was not die-stamped by the manufacturer; or

(2) a vehicle identification [~~the serial~~] number die-stamped by the manufacturer has been lost, removed, or obliterated.

(b) The applicant shall die-stamp the assigned vehicle identification [~~serial~~] number at the place designated by the department on the travel [~~house~~] trailer, trailer, semitrailer, or equipment.

(c) The manufacturer's vehicle identification [~~serial~~] number or the vehicle identification [~~serial~~] number assigned by the department shall be affixed on the carriage or axle part of the travel [~~house~~] trailer, trailer, or semitrailer. The department shall use the number as the major identification of the vehicle in the issuance of a [~~certificate of~~] title.

SECTION 40.020. Sections 501.033(a), (b), and (d), Transportation Code, are amended to read as follows:

(a) A person determined by [~~the department or~~] a court to be the owner of a motor vehicle, a part of a motor vehicle, or an item of equipment including a tractor, farm implement, unit of special mobile equipment, or unit of off-road construction equipment [~~that~~

~~has had the serial number removed, altered, or obliterated~~] may apply to the department for an assigned vehicle identification number that has been removed, altered, or obliterated.

(b) An application under this section must be in [~~on~~] a manner [~~form~~] prescribed [~~and furnished~~] by the department and accompanied by [~~the certificate of title for the vehicle or other~~] valid evidence of ownership as required by the department [~~if there is no certificate of title~~].

(d) The assigned vehicle identification number shall be die-stamped or otherwise affixed [~~to the motor vehicle, part, or item of equipment at the location and~~] in the manner designated by the department.

SECTION 40.021. Section 520.011, Transportation Code, is transferred to Subchapter B, Chapter 501, Transportation Code, renumbered as Section 501.0331, Transportation Code, and amended to read as follows:

Sec. 501.0331 [~~520.011~~]. MOTOR NUMBER REQUIRED FOR [~~VEHICLE~~] REGISTRATION [~~; PENALTY~~]. [~~(a)~~] A person may not apply to the county assessor-collector for the registration of a motor vehicle from which the original motor number has been removed, erased, or destroyed until the motor vehicle bears the motor number assigned by the department.

[~~(b) A person commits an offense if the person violates this section. An offense under this subsection is a misdemeanor punishable by a fine of not less than $50 and not more than $100.~~]

SECTION 40.022. Section 520.012, Transportation Code, is transferred to Subchapter B, Chapter 501, Transportation Code,

renumbered as Section 501.0332, Transportation Code, and amended to read as follows:

Sec. 501.0332 [~~520.012~~]. APPLICATION FOR MOTOR NUMBER RECORD[~~; RECORD; PENALTY~~]. (a) To obtain a motor number assigned by the department, the owner of a motor vehicle that has had the original motor number removed, erased, or destroyed must file a sworn application with the department.

(b) The department shall maintain a record of [~~separate register for recording~~] each motor number assigned by the department that includes[~~. For each motor number assigned by the department, the record must indicate~~]:

(1) the motor number assigned by the department;

(2) the name and address of the owner of the motor vehicle; and

(3) the make, model, and year of manufacture of the motor vehicle.

[~~(c) A person who fails to comply with this section commits an offense. An offense under this subsection is a misdemeanor punishable by a fine of not less than $10 and not more than $100.~~]

SECTION 40.023. Section 501.034, Transportation Code, is amended to read as follows:

Sec. 501.034. ISSUANCE OF TITLE TO GOVERNMENT AGENCY. The department may issue a [~~certificate of~~] title to a government agency if a vehicle or part of a vehicle is:

(1) forfeited to the government agency;

(2) delivered by court order under the Code of Criminal Procedure to a government agency for official purposes; or

(3) sold as abandoned or unclaimed property under the Code of Criminal Procedure.

SECTION 40.024. Section 501.035, Transportation Code, is amended to read as follows:

Sec. 501.035. [~~CERTIFICATE OF~~] TITLE FOR FORMER MILITARY VEHICLE. (a) Notwithstanding any other law, the department may [~~shall~~] issue a [~~certificate of~~] title for a former military vehicle [~~that is not registered under the laws of this state~~] if all [~~other~~] requirements for issuance of a [~~certificate of~~] title are met.

(b) In this section, "former military vehicle" has the meaning assigned by Section 504.502 [~~502.275(o)~~].

SECTION 40.025. Section 501.036, Transportation Code, is amended to read as follows:

Sec. 501.036. [~~CERTIFICATE OF~~] TITLE FOR FARM SEMITRAILER. (a) Notwithstanding any other provision of this chapter, the department may issue a [~~certificate of~~] title for a farm semitrailer with a gross weight of more than 4,000 pounds if:

(1) the farm semitrailer is eligible for registration under Section 502.146 [~~504.504~~]; and

(2) all other requirements for issuance of a [~~certificate of~~] title are met.

(b) To obtain a [~~certificate of~~] title under this section, the owner of the farm semitrailer must:

(1) apply for the [~~certificate of~~] title in the manner required by Section 501.023; and

(2) pay the fee required by Section 501.138.

(c) The department shall adopt rules [~~and forms~~] to implement and administer this section.

SECTION 40.026. Section 501.051, Transportation Code, is amended to read as follows:

Sec. 501.051. GROUNDS FOR REFUSAL TO ISSUE OR FOR REVOCATION OR SUSPENSION OF TITLE [~~CERTIFICATE~~]. (a) A title may be refused, canceled, suspended, or revoked by the [~~The~~] department [~~shall refuse to issue a certificate of title or shall suspend or revoke a certificate of title~~] if:

(1) the application [~~for the certificate~~] contains a false or fraudulent statement;

(2) the applicant failed to furnish required information requested by the department;

(3) the applicant is not entitled to a [~~certificate of~~] title;

(4) the department has reason to believe that the motor vehicle is stolen;

(5) the department has reason to believe that the issuance of a [~~certificate of~~] title would defraud the owner or a lienholder of the motor vehicle;

(6) the registration for the motor vehicle is suspended or revoked; or

(7) the required fee has not been paid.

(b) The department may rescind, cancel, or revoke an application for a title if a notarized affidavit is presented to the department containing:

(1) a statement that the vehicle involved was a new

motor vehicle in the process of a first sale;

(2) a statement that the dealer, the applicant, and any lienholder have canceled the sale;

(3) a statement that the vehicle:

(A) was never in the possession of the title applicant; or

(B) was in the possession of the title applicant; and

(4) the signatures of the dealer, the applicant, and any lienholder.

(c) A rescission, cancellation, or revocation containing the statement authorized under Subsection (b)(3)(B) does not negate the fact that the vehicle has been the subject of a previous retail sale.

SECTION 40.027. The heading to Section 501.052, Transportation Code, is amended to read as follows:

Sec. 501.052. HEARING ON REFUSAL TO ISSUE OR REVOCATION OR SUSPENSION OF [~~CERTIFICATE OF~~] TITLE; APPEAL.

SECTION 40.028. Sections 501.052(a), (d), and (e), Transportation Code, are amended to read as follows:

(a) An interested person aggrieved by a refusal, rescission, cancellation, suspension, or revocation under Section 501.051 may apply for a hearing to the county assessor-collector for the county in which the person is a resident [~~domiciled~~]. On the day an assessor-collector receives the application, the assessor-collector shall notify the department of the date of the hearing.

(d) A determination of the assessor-collector is binding on the applicant and the department as to whether the department correctly refused to issue or correctly rescinded, canceled, revoked, or suspended the [~~certificate of~~] title.

(e) An applicant aggrieved by the determination under Subsection (d) may appeal to the county court of the county of the applicant's residence. An applicant must file an appeal not later than the fifth day after the date of the assessor-collector's determination. The county court judge shall try the appeal in the manner of other civil cases. All rights and immunities granted in the trial of a civil case are available to the interested parties. If the department's action is not sustained, the department shall promptly issue a [~~certificate of~~] title for the vehicle.

SECTION 40.029. Section 501.053, Transportation Code, is amended by amending Subsections (a), (b), and (d) and adding Subsection (e) to read as follows:

(a) As an alternative to the procedure provided by Section 501.052, the person may file a bond with the department. On the filing of the bond the person [~~department~~] may obtain a [~~issue the certificate of~~] title.

(b) The bond must be:

(1) in the manner [~~form~~] prescribed by the department;

(2) executed by the applicant;

(3) issued by a person authorized to conduct a surety business in this state;

(4) in an amount equal to one and one-half times the value of the vehicle as determined by the department, which may set

the value by appraisal if it is unable to determine that value; and

(5) conditioned to indemnify all prior owners and lienholders and all subsequent purchasers of the vehicle or persons who acquire a security interest in the vehicle, and their successors in interest, against any expense, loss, or damage, including reasonable attorney's fees, occurring because of the issuance of the [~~certificate of~~] title for the vehicle or for a defect in or undisclosed security interest on the right, title, or interest of the applicant to the vehicle.

(d) A bond under this section expires on the third anniversary of the date the bond became effective. [~~The department shall return an expired bond to the person who filed the bond unless the department has been notified of a pending action to recover on the bond.~~]

(e) The department by rule may establish a fee to cover the cost of administering this section.

SECTION 40.030. Section 501.071, Transportation Code, is amended to read as follows:

Sec. 501.071. SALE OF VEHICLE; TRANSFER OF TITLE. (a) Except as provided in Section 503.039, a motor vehicle may not be the subject of a subsequent sale unless the owner designated on [~~in~~] the [~~certificate of~~] title submits a transfer of ownership of [~~transfers~~] the [~~certificate of~~] title [~~at the time of the sale~~].

(b) The transfer of the [~~certificate of~~] title must be in [~~on~~] a manner [~~form~~] prescribed by the department that [~~includes a statement that~~]:

(1) certifies the purchaser [~~signer~~] is the owner of

the vehicle; and

(2) certifies there are no liens on the vehicle or provides a release of each lien [~~except as shown~~] on the vehicle [~~certificate of title or as fully described in the statement~~].

SECTION 40.031. Section 501.072, Transportation Code, is amended to read as follows:

Sec. 501.072. ODOMETER DISCLOSURE STATEMENT. (a) Except as provided by Subsection (b) [~~(c)~~], the seller of a motor vehicle sold in this state shall provide to the buyer, in [~~on~~] a manner [~~form~~] prescribed by the department, a [~~written~~] disclosure of the vehicle's odometer reading at the time of the sale that complies with federal law. [~~The form must include space for the signature and printed name of both the seller and buyer.~~]

(b) [~~When application for a certificate of title is made, the owner shall record the current odometer reading on the application. The written disclosure required by Subsection (a) must accompany the application.~~]

[~~(c)~~] An odometer disclosure statement is not required for the sale of a motor vehicle that:

(1) has a gross vehicle weight rating [~~manufacturer's rated carrying capacity~~] of more than 18,000 pounds [~~two tons~~];

(2) is not self-propelled;

(3) is 10 or more years old;

(4) is sold directly by the manufacturer to an agency of the United States government in conformity with contractual specifications; or

(5) is a new motor vehicle.

SECTION 40.032. Section 520.022, Transportation Code, is transferred to Subchapter D, Chapter 501, Transportation Code, renumbered as Section 501.0721, Transportation Code, and amended to read as follows:

Sec. 501.0721 [~~520.022~~]. DELIVERY OF RECEIPT AND TITLE TO PURCHASER [~~TRANSFEREE; PENALTY~~]. [~~(a)~~] A person, whether acting for that person or another, who sells, trades, or otherwise transfers a used motor vehicle shall deliver to the purchaser [~~transferee~~] at the time of delivery of the vehicle [~~:~~

[~~(1) the license receipt issued by the department for registration of the vehicle, if the vehicle was required to be registered at the time of the delivery; and~~

[~~(2)~~] a properly assigned [~~certificate of~~] title or other evidence of title as required under this chapter [~~Chapter 501~~].

[~~(b) A person commits an offense if the person violates this section. An offense under this subsection is a misdemeanor punishable by a fine not to exceed $200.~~]

SECTION 40.033. Sections 501.074(a), (b), and (c), Transportation Code, are amended to read as follows:

(a) The department shall issue a new [~~certificate of~~] title for a motor vehicle registered in this state for which the ownership is transferred by operation of law [~~, including by inheritance, devise or bequest, bankruptcy, receivership, judicial sale,~~] or other involuntary divestiture of ownership after receiving:

(1) a certified copy of an [~~the~~] order appointing a temporary administrator or of the probate proceedings;

(2) letters testamentary or letters of administration;

(3) if administration of an estate is not necessary, an affidavit showing that administration is not necessary, identifying all heirs, and including a statement by the heirs of the name in which the certificate shall be issued;

(4) a court order; or

(5) the bill of sale from an officer making a judicial sale.

(b) If a lien is foreclosed by nonjudicial means, the department may issue a new [~~certificate of~~] title in the name of the purchaser at the foreclosure sale on receiving the affidavit of the lienholder of the fact of the nonjudicial foreclosure.

(c) If a constitutional or statutory lien is foreclosed, the department may issue a new [~~certificate of~~] title in the name of the purchaser at the foreclosure sale on receiving:

(1) the affidavit of the lienholder of the fact of the creation of the lien and of the divestiture of title according to law; and

(2) proof of notice as required by Sections 70.004 and 70.006, Property Code.

SECTION 40.034. Section 501.091, Transportation Code, is amended by amending Subdivisions (2), (3), (6), (7), (8), (9), (10), (11), (12), (14), (15), (16), (17), (18), and (19) and adding Subdivisions (10-a) and (16-a) to read as follows:

(2) "Casual sale" means the sale by a salvage vehicle dealer or an insurance company of <u>five or fewer</u> [~~not more than five~~]

nonrepairable motor vehicles or salvage motor vehicles to the same person during a calendar year, but [~~. The term~~] does not include[~~:~~

[~~(A)~~] a sale at auction to a salvage vehicle dealer, insurance company, or governmental entity [~~, or~~

[~~(B) the sale of an export-only motor vehicle to a person who is not a resident of the United States~~].

(3) "Damage" means sudden damage to a motor vehicle caused by the motor vehicle being wrecked, burned, flooded, or stripped of major component parts. The term does not include:

(A) gradual damage from any cause;

(B) [~~,~~] sudden damage caused by hail;

(C) [~~, or~~] any damage caused only to the exterior paint of the motor vehicle; or

(D) theft, unless the motor vehicle was damaged during the theft and before recovery.

(6) "Major component part" means one of the following parts of a motor vehicle:

(A) the engine;

(B) the transmission;

(C) the frame;

(D) a fender;

(E) the hood;

(F) a door allowing entrance to or egress from the passenger compartment of the motor vehicle;

(G) a bumper;

(H) a quarter panel;

(I) a deck lid, tailgate, or hatchback;

(J) the cargo box of a vehicle with a gross vehicle weight of 10,000 pounds or less [~~one-ton or smaller truck~~], including a pickup truck;

(K) the cab of a truck;

(L) the body of a passenger motor vehicle;

(M) the roof or floor pan of a passenger motor vehicle, if separate from the body of the motor vehicle.

(7) "Metal recycler" means a person who:

(A) is [~~predominately~~] engaged in the business of obtaining, converting, or selling ferrous or nonferrous metal [~~that has served its original economic purpose to convert the metal, or sell the metal~~] for conversion[~~,~~] into raw material products consisting of prepared grades and having an existing or potential economic value;

(B) has a facility to convert ferrous or nonferrous metal into raw material products [~~consisting of prepared grades and having an existing or potential economic value,~~] by method other than the exclusive use of hand tools, including the processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form or chemical content of the metal; and

(C) sells or purchases the ferrous or nonferrous metal solely for use as raw material in the production of new products.

(8) "Motor vehicle" has the meaning assigned by Section 501.002 [~~501.002(14)~~].

(9) "Nonrepairable motor vehicle" means a motor

vehicle that:

(A) is damaged, wrecked, or burned to the extent that the only residual value of the vehicle is as a source of parts or scrap metal; or

(B) comes into this state under a comparable [~~title or other~~] ownership document that indicates that the vehicle is nonrepairable [~~, junked, or for parts or dismantling only~~].

(10) "Nonrepairable vehicle title" means a printed document issued by the department that evidences ownership of a nonrepairable motor vehicle.

(10-a) "Nonrepairable record of title" means an electronic record of ownership of a nonrepairable motor vehicle.

(11) "Out-of-state buyer" means a person licensed in an automotive business by another state or jurisdiction who is [~~if the department has listed the holders of such a license as permitted purchasers of salvage motor vehicles or nonrepairable motor vehicles based on substantially similar licensing requirements and on whether salvage vehicle dealers licensed in Texas are~~] permitted to purchase salvage motor vehicles or nonrepairable motor vehicles in this state because the other state or jurisdiction allows salvage dealers licensed in this state to purchase vehicles in that state.

(12) "Out-of-state ownership document" means a negotiable document issued by another state or jurisdiction that the department considers sufficient to prove ownership of a nonrepairable motor vehicle or salvage motor vehicle and to support the issuance of a comparable Texas [~~certificate of~~] title for the

motor vehicle. The term does not include any [~~a~~] title or certificate issued by the department [~~, including a regular certificate of title, a nonrepairable vehicle title, a salvage vehicle title, a Texas Salvage Certificate, Certificate of Authority to Demolish a Motor Vehicle, or another ownership document issued by the department~~].

(14) "Rebuilder" means a person who acquires and repairs, rebuilds, or reconstructs salvage motor vehicles for operation on a public highway[~~, three or more salvage motor vehicles in a calendar year~~].

(15) "Salvage motor vehicle" [~~:~~

[~~(A)~~] means a motor vehicle that:

(A) [~~(i)~~] has damage to or is missing a major component part to the extent that the cost of repairs, including parts and labor other than the cost of materials and labor for repainting the motor vehicle and excluding sales tax on the total cost of repairs, exceeds the actual cash value of the motor vehicle immediately before the damage; or

(B) [~~(ii) is damaged and that~~] comes into this state under an out-of-state salvage motor vehicle [~~certificate of~~] title or similar out-of-state ownership document [~~that states on its face "accident damage," "flood damage," "inoperable," "rebuildable," "salvageable," or similar notation; and~~

[~~(B) does not include an out-of-state motor vehicle with a "rebuilt," "prior salvage," "salvaged," or similar notation, a nonrepairable motor vehicle, or a motor vehicle for which an insurance company has paid a claim for:~~

[~~(i) the cost of repairing hail damage; or~~

[~~(ii) theft, unless the motor vehicle was damaged during the theft and before recovery to the extent described by Paragraph (A)(i)~~].

(16) "Salvage vehicle title" means a printed document issued by the department that evidences ownership of a salvage motor vehicle.

(16-a) "Salvage record of title" means an electronic record of ownership of a salvage motor vehicle.

(17) "Salvage vehicle dealer" means a person engaged in this state in the business of acquiring, selling, dismantling, repairing, rebuilding, reconstructing, or otherwise dealing in nonrepairable motor vehicles, salvage motor vehicles, or used parts regardless of whether the person holds a license issued by the department to engage in that business. [~~The term does not include a person who casually repairs, rebuilds, or reconstructs fewer than three salvage motor vehicles in the same calendar year.~~] The term includes a buyer licensed in another state but does not include an unlicensed [~~a~~] person who casually [~~engaged in the business of~~]:

(A) repairs, rebuilds, or reconstructs five or fewer salvage motor vehicles or nonrepairable motor vehicles in the same calendar year [~~a salvage vehicle dealer, regardless of whether the person holds a license issued by the department to engage in that business~~]; or

(B) buys five or fewer [~~dealing in~~] nonrepairable motor vehicles or salvage motor vehicles in the same calendar year [~~, regardless of whether the person deals in used parts; or~~

[~~(C) dealing in used parts regardless of whether the person deals in nonrepairable motor vehicles or salvage motor vehicles~~].

(18) "Self-insured motor vehicle" means a motor vehicle for which the [~~evidence of ownership is a manufacturer's certificate of origin or for which the department or another state or jurisdiction has issued a regular certificate of title, is self-insured by the~~] owner [~~, and is owned by an individual, a business,~~] or a governmental entity assumes full financial responsibility for motor vehicle loss claims[~~,~~] without regard to the number of motor vehicles they own or operate. The term does not include a motor vehicle that is insured by an insurance company.

(19) "Used part" means a part that is salvaged, dismantled, or removed from a motor vehicle for resale as is or as repaired. The term includes a major component part but does not include a rebuildable or rebuilt core [~~, including an engine, block, crankshaft, transmission, or other core part that is acquired, possessed, or transferred in the ordinary course of business~~].

SECTION 40.035. Section 501.098, Transportation Code, is renumbered as Section 501.09111, Transportation Code, and amended to read as follows:

Sec. 501.09111 [~~501.098~~]. RIGHTS AND LIMITATIONS OF [~~HOLDER OF~~] NONREPAIRABLE VEHICLE TITLE, NONREPAIRABLE RECORD OF TITLE, [~~OR~~] SALVAGE VEHICLE TITLE, OR SALVAGE RECORD OF TITLE. (a) A person who owns [~~holds~~] a nonrepairable [~~vehicle title for a~~] motor vehicle:

(1) is entitled to possess, transport, dismantle, scrap, destroy, record a lien as provided for in Section 501.097(a)(3)(A), and sell, transfer, or release ownership of the motor vehicle or a used part from the motor vehicle; and

(2) may not:

(A) operate or permit the operation of the motor vehicle on a public highway, in addition to any other requirement of law;

(B) repair, rebuild, or reconstruct the motor vehicle; or

(C) register the motor vehicle.

(b) A person who holds a nonrepairable certificate of title issued prior to September 1, 2003, [~~+~~

[~~(1)~~] is entitled to the same rights listed in Subsection (a) and may [~~+~~

[~~(A)~~] repair, rebuild, or reconstruct the motor vehicle [~~+~~

[~~(B) possess, transport, dismantle, scrap, or destroy the motor vehicle; and~~

[~~(C) sell, transfer, or release ownership of the vehicle or a used part from the motor vehicle; and~~

[~~(2) may not:~~

[~~(A) operate or permit the operation of the motor vehicle on a public highway, in addition to any other requirement of law; or~~

[~~(B) register the motor vehicle~~].

(c) A person who owns [~~holds~~] a salvage [~~vehicle title for~~

~~a~~] motor vehicle:

(1) is entitled to possess, transport, dismantle, scrap, destroy, repair, rebuild, reconstruct, record a lien on, and sell, transfer, or release ownership of the motor vehicle or a used part from the motor vehicle; and

(2) may not operate, register, or permit the operation of the motor vehicle on a public highway, in addition to any other requirement of law.

SECTION 40.036. Section 501.103, Transportation Code, is renumbered as Section 501.09112, Transportation Code, and amended to read as follows:

Sec. 501.09112 [~~501.103~~]. APPEARANCE [~~COLOR~~] OF NONREPAIRABLE VEHICLE TITLE OR SALVAGE VEHICLE TITLE. (a) The department's printed [~~department shall print a~~] nonrepairable vehicle title:

(1) must [~~in a color that distinguishes it from a regular certificate of title or salvage vehicle title; and~~

[~~(2) so that it~~] clearly indicate [~~shows~~] that it is the negotiable ownership document for a nonrepairable motor vehicle;

(2) [~~.~~

[~~(b) A nonrepairable vehicle title must state on its face that the motor vehicle:~~

[~~(1)~~] may not be:

(A) issued a regular [~~certificate of~~] title;

(B) registered in this state; or

(C) repaired, rebuilt, or reconstructed; and

(3) [~~(2)~~] may be used only as a source for used parts or scrap metal.

(b) [~~(c)~~] The department's printed [~~department shall print a~~] salvage vehicle title must [~~:~~

[~~(A) in a color that distinguishes it from a regular certificate of title or nonrepairable vehicle title; and~~

[~~(B) so that each document~~] clearly show [~~shows~~] that it is the ownership document for a salvage motor vehicle.

(c) [~~(d)~~] A salvage vehicle title or a salvage record of title for a vehicle that is a salvage motor vehicle because of damage caused exclusively by flood must bear a notation [~~on its face~~] that the department considers appropriate. If the title for a motor vehicle reflects the notation required by this subsection, the owner may sell, transfer, or release the motor vehicle only as provided by this subchapter.

(d) An electronic application for a nonrepairable vehicle title, nonrepairable record of title, salvage vehicle title, or salvage record of title must clearly advise the applicant of the same provisions required on a printed title.

(e) A nonrepairable vehicle title, nonrepairable record of title, salvage vehicle title, or salvage record of title in the department's electronic database must include appropriate remarks so that the vehicle record clearly shows the status of the vehicle [~~The department may provide a stamp to a person who is a licensed salvage vehicle dealer under Chapter 2302, Occupations Code, to mark the face of a title under this subchapter. The department shall provide the stamp to the person for a fee in the amount~~

~~determined by the department to be necessary for the department to recover the cost of providing the stamp~~].

SECTION 40.037. Section 501.101, Transportation Code, is renumbered as Section 501.09113, Transportation Code, and amended to read as follows:

Sec. 501.09113 [~~501.101~~]. OUT-OF-STATE SALVAGE OR REBUILT SALVAGE VEHICLE [~~ISSUANCE OF TITLE TO MOTOR VEHICLE BROUGHT INTO STATE~~]. (a) This section applies only to a motor vehicle brought into this state from another state or jurisdiction that has on any [~~certificate of~~] title or comparable out-of-state ownership document issued by the other state or jurisdiction:

(1) a "rebuilt," "salvage," or similar notation; or

(2) a "nonrepairable," "dismantle only," "parts only," "junked," "scrapped," or similar notation.

(b) On receipt of a complete application from the owner of the motor vehicle, the department shall issue the applicant the appropriate [~~certificate of~~] title for the motor vehicle.

[~~(c) A certificate of title issued under this section must show on its face:~~

[~~(1) the date of issuance;~~

[~~(2) the name and address of the owner;~~

[~~(3) any registration number assigned to the motor vehicle; and~~

[~~(4) a description of the motor vehicle or other notation the department considers necessary or appropriate.~~]

SECTION 40.038. The heading to Section 501.095, Transportation Code, is amended to read as follows:

Sec. 501.095. SALE, TRANSFER, OR RELEASE [~~OF NONREPAIRABLE MOTOR VEHICLE OR SALVAGE MOTOR VEHICLE~~].

SECTION 40.039. Section 501.095, Transportation Code, is amended to read as follows:

Sec. 501.095. SALE, TRANSFER, OR RELEASE OF NONREPAIRABLE MOTOR VEHICLE OR SALVAGE MOTOR VEHICLE. (a) If the department has not issued a nonrepairable vehicle title, nonrepairable record of title, [~~or~~] salvage vehicle title, or salvage record of title for the motor vehicle and a comparable [~~an~~] out-of-state ownership document for the motor vehicle has not been issued by another state or jurisdiction, a business or governmental entity described by Subdivisions (1)-(3) may sell, transfer, or release a nonrepairable motor vehicle or salvage motor vehicle only to a person who is:

(1) a licensed salvage vehicle dealer or metal recycler under Chapter 2302, Occupations Code;

(2) an insurance company that has paid a claim on the nonrepairable or salvage motor vehicle; or

(3) a governmental entity [~~; or~~

[~~(4) an out-of-state buyer~~].

(b) An owner [~~A person~~], other than a salvage vehicle dealer or an insurance company licensed to do business in this state, who acquired ownership of a nonrepairable or salvage motor vehicle that has not been issued a nonrepairable vehicle title, nonrepairable record of title, salvage vehicle title, salvage record of title, or a comparable ownership document issued by another state or jurisdiction shall, before selling the motor vehicle, surrender the properly assigned [~~certificate of~~] title for the motor vehicle to

the department and apply to the department for the appropriate ownership document [~~:~~

[~~(1) a nonrepairable vehicle title if the vehicle is a nonrepairable motor vehicle; or~~

[~~(2) a salvage vehicle title if the vehicle is a salvage motor vehicle~~].

(c) If the department has issued a nonrepairable vehicle title, [~~or~~] salvage vehicle title, or nonrepairable or salvage record of title for the motor vehicle or another state or jurisdiction has issued a comparable out-of-state ownership document for the motor vehicle, a person may sell, transfer, or release a nonrepairable motor vehicle or salvage motor vehicle to any person.

SECTION 40.040. Section 501.097, Transportation Code, is amended by amending Subsections (a) and (c) and adding Subsection (c-1) to read as follows:

(a) An application for a nonrepairable vehicle title, nonrepairable record of title, [~~or~~] salvage vehicle title, or salvage record of title must:

(1) be made in [~~on~~] a manner [~~form~~] prescribed by the department and accompanied by a $8 application fee;

(2) include, in addition to any other information required by the department:

(A) the name and current address of the owner; and

(B) a description of the motor vehicle, including the make, style of body, model year, and vehicle identification

number[~~, and~~

[~~(C) a statement describing whether the motor vehicle:~~

[~~(i) was the subject of a total loss claim paid by an insurance company under Section 501.092 or 501.093;~~

[~~(ii) is a self-insured motor vehicle under Section 501.094;~~

[~~(iii) is an export-only motor vehicle under Section 501.099; or~~

[~~(iv) was sold, transferred, or released to the owner or former owner of the motor vehicle or a buyer at a casual sale~~]; and

(3) include the name and address of:

(A) any currently recorded lienholder, if the motor vehicle is a nonrepairable motor vehicle; or

(B) any currently recorded lienholder or a new lienholder, if the motor vehicle is a salvage motor vehicle.

(c) A printed nonrepairable vehicle title must state on its face that the motor vehicle:

(1) may not:

(A) be repaired, rebuilt, or reconstructed;

(B) be issued a regular [~~certificate of~~] title or registered in this state;

(C) be operated on a public highway, in addition to any other requirement of law; and

(2) may only be used as a source for used parts or scrap metal.

(c-1) The department's titling system must include a remark that clearly identifies the vehicle as a salvage or nonrepairable motor vehicle.

SECTION 40.041. Sections 501.100(a), (b), (c), and (f), Transportation Code, are amended to read as follows:

(a) A vehicle for which a nonrepairable certificate of title issued prior to September 1, 2003, or for which a salvage vehicle title or salvage record of title has been issued may obtain [~~be issued~~] a regular [~~certificate of~~] title after the motor vehicle has been repaired, rebuilt, or reconstructed [~~by a person described by Section 501.104(a)~~] and, in addition to any other requirement of law, only if the application [~~is accompanied by a separate form that~~]:

(1) describes each major component part used to repair the motor vehicle;

(2) states the name of each person from whom the parts used in assembling the vehicle were obtained; and

(3) [~~(2)~~] shows the identification number required by federal law to be affixed to or inscribed on the part.

(b) On receipt of a complete application under this section accompanied by the [~~$13~~] fee for the [~~certificate of~~] title, the department shall issue the applicant a regular or record [~~certificate~~] of title [~~for the motor vehicle~~].

(c) A regular [~~certificate of~~] title issued under this section must [~~:~~

[~~(1)~~] describe or disclose the motor vehicle's former condition in a manner reasonably understandable to a potential

purchaser of the motor vehicle [~~, and~~

[~~(2) bear on its face the words "REBUILT SALVAGE" in capital letters that:~~

[~~(A) are red;~~

[~~(B) are centered on and occupy at least 15 percent of the face of the certificate of title; and~~

[~~(C) do not prevent any other words on the title from being read or copied~~].

(f) The department may not issue a regular [~~certificate of~~] title for a motor vehicle based on a:

(1) nonrepairable vehicle title or comparable out-of-state ownership document;

(2) receipt issued under Section 501.1003(b) [~~501.096(b)~~]; or

(3) certificate of authority.

SECTION 40.042. Section 501.092, Transportation Code, is renumbered as Section 501.1001, Transportation Code, and amended to read as follows:

Sec. 501.1001 [~~501.092~~]. [~~INSURANCE COMPANY TO SURRENDER CERTIFICATES OF TITLE TO CERTAIN~~] SALVAGE MOTOR VEHICLES OR NONREPAIRABLE MOTOR VEHICLES FOR INSURANCE COMPANIES OR SELF-INSURED PERSONS. (a) An insurance company that is licensed to conduct business in this state and that acquires, through payment of a claim, ownership or possession of a salvage motor vehicle or nonrepairable motor vehicle covered by a [~~certificate of~~] title issued by this state or a manufacturer's certificate of origin shall surrender a properly assigned title or manufacturer's

certificate of origin to the department, in [~~on~~] a manner [~~form~~] prescribed by the department, except that not earlier than the 31st [~~46th~~] day after the date of payment of the claim the insurance company may surrender a [~~certificate of~~] title, in [~~on~~] a manner [~~form~~] prescribed by the department, and receive a salvage vehicle [~~certificate of~~] title or a nonrepairable vehicle [~~certificate of~~] title without obtaining a properly assigned [~~certificate of~~] title if the insurance company:

(1) has obtained the release of all liens on the motor vehicle;

(2) is unable to locate one or more owners of the motor vehicle; and

(3) has provided notice to the last known address in the department's records to each owner that has not been located:

(A) by registered or certified mail, return receipt requested; or

(B) if a notice sent under Paragraph (A) is returned unclaimed, by publication in a newspaper of general circulation in the area where the unclaimed mail notice was sent.

(b) For a salvage motor vehicle, the insurance company shall apply for a salvage vehicle title or salvage record of title. For a nonrepairable motor vehicle, the insurance company shall apply for a nonrepairable vehicle title or nonrepairable record of title.

(c) [~~An insurance company may not sell a motor vehicle to which this section applies unless the department has issued a salvage vehicle title or a nonrepairable vehicle title for the motor vehicle or a comparable ownership document has been issued by~~

~~another state or jurisdiction for the motor vehicle.~~

[~~(d) An insurance company may sell a motor vehicle to which this section applies, or assign a salvage vehicle title or a nonrepairable vehicle title for the motor vehicle, only to a salvage vehicle dealer, an out-of-state buyer, a buyer in a casual sale at auction, or a metal recycler. If the motor vehicle is not a salvage motor vehicle or a nonrepairable motor vehicle, the insurance company is not required to surrender the regular certificate of title for the vehicle or to be issued a salvage vehicle title or a nonrepairable vehicle title for the motor vehicle.~~

[~~(e)~~] An insurance company or other person who acquires ownership of a motor vehicle other than a nonrepairable or salvage motor vehicle may voluntarily and on proper application obtain a salvage vehicle title, salvage record of title, [~~or a~~] nonrepairable vehicle title, or nonrepairable record of title for the vehicle.

(d) This section applies only to a motor vehicle in this state that is:

(1) a self-insured motor vehicle; and

(2) damaged to the extent it becomes a nonrepairable or salvage motor vehicle.

(e) The owner of a motor vehicle to which this section applies shall submit to the department before the 31st business day after the date of the damage, in a manner prescribed by the department, a statement that the motor vehicle was self-insured and damaged.

(f) When the owner submits a statement under Subsection (e), the owner shall surrender the ownership document and apply for a nonrepairable vehicle title, nonrepairable record of title, salvage vehicle title, or salvage record of title.

SECTION 40.043. Section 501.093, Transportation Code, is renumbered as Section 501.1002, Transportation Code, and amended to read as follows:

Sec. 501.1002 [~~501.093~~]. OWNER-RETAINED [~~INSURANCE COMPANY REPORT ON CERTAIN~~] VEHICLES. (a) If an insurance company pays a claim on a nonrepairable motor vehicle or salvage motor vehicle and the insurance company does not acquire ownership of the motor vehicle, the insurance company shall:

(1) apply for a nonrepairable vehicle title, nonrepairable record of title, salvage vehicle title, or salvage record of title; or

(2) notify the owner of the information contained in:

(A) Subsection (b); or

(B) Section 501.09111; and

(3) submit to the department, before the 31st day after the date of the payment of the claim, in a manner [~~on the form~~] prescribed by the department, a report stating that the insurance company:

(A) [~~(1)~~] has paid a claim on the motor vehicle; and

(B) [~~(2)~~] has not acquired ownership of the motor vehicle.

(b) The owner of a motor vehicle to which this section

applies may not operate or permit operation of the motor vehicle on a public highway or transfer ownership of the motor vehicle by sale or otherwise unless the department has issued a salvage vehicle title, salvage record of title, [~~or a~~] nonrepairable vehicle title, or nonrepairable record of title for the motor vehicle or a comparable ownership document has been issued by another state or jurisdiction for the motor vehicle.

[~~(c) Subsection (b) does not apply if:~~

[~~(1) the department has issued a nonrepairable vehicle title or salvage vehicle title for the motor vehicle; or~~

[~~(2) another state or jurisdiction has issued a comparable out-of-state ownership document for the motor vehicle.~~]

SECTION 40.044. Section 501.096, Transportation Code, is renumbered as Section 501.1003, Transportation Code, and amended to read as follows:

Sec. 501.1003 [~~501.096~~]. [~~NONREPAIRABLE MOTOR VEHICLE OR~~] SALVAGE DEALER RESPONSIBILITIES [~~MOTOR VEHICLE DISMANTLED, SCRAPPED, OR DESTROYED~~]. (a) If a salvage vehicle dealer acquires ownership of a nonrepairable motor vehicle or salvage motor vehicle for the purpose of dismantling, scrapping, or destroying the motor vehicle, the dealer shall, before the 31st day after the date the dealer acquires the motor vehicle, submit to the department a report stating that the motor vehicle will be dismantled, scrapped, or destroyed. The dealer shall:

(1) make the report in a manner [~~on a form~~] prescribed by the department; and

(2) submit with the report a properly assigned

manufacturer's certificate of origin, regular certificate of title, nonrepairable vehicle title, salvage vehicle title, or comparable out-of-state ownership document for the motor vehicle.

(b) After receiving the report and title or document, the department shall issue the salvage vehicle dealer a receipt for the manufacturer's certificate of origin, regular certificate of title, nonrepairable vehicle title, salvage vehicle title, or comparable out-of-state ownership document.

(c) The department shall adopt rules to notify the salvage [~~vehicle~~] dealer if the vehicle was not issued a printed title, but has a record of title in the department's titling system [~~shall:~~

[~~(1) keep on the business premises of the dealer, until the third anniversary of the date the report on the motor vehicle is submitted to the department, a record of the vehicle, its ownership, and its condition as dismantled, scrapped, or destroyed; and~~

[~~(2) present to the department, on the form prescribed by the department, evidence that the motor vehicle was dismantled, scrapped, or destroyed before the 61st day after the date the dealer completed the dismantling, scrapping, or destruction of the motor vehicle~~].

SECTION 40.045. Section 501.104, Transportation Code, is amended to read as follows:

Sec. 501.104. REBUILDER TO POSSESS TITLE OR OTHER DOCUMENTATION. (a) This section applies [~~only~~] to [~~:~~

[~~(1) a rebuilder licensed as a salvage vehicle dealer;~~

[~~(2)~~] a person engaged in repairing, rebuilding, or

reconstructing motor vehicles [~~the business of a rebuilder~~], regardless of whether the person is licensed to engage in that business [~~; or~~

[~~(3) a person engaged in the casual repair, rebuilding, or reconstruction of fewer than three motor vehicles in the same 12-month period~~].

(b) A person described by Subsection (a) must possess:

(1) an acceptable [~~a regular certificate of title, nonrepairable vehicle title, salvage vehicle title, or comparable out-of-state~~] ownership document or proof of ownership for any motor vehicle that is:

(A) owned by the person;

(B) in the person's inventory; and

(C) being offered for resale; or

(2) a contract entered into with the owner, a work order, or another document that shows the authority for the person to possess any motor vehicle that is:

(A) owned by another person;

(B) on the person's business or casual premises; and

(C) being repaired, rebuilt, or reconstructed for the other person.

SECTION 40.046. Section 501.105, Transportation Code, is renumbered as Section 501.108, Transportation Code, and amended to read as follows:

Sec. 501.108 [~~501.105~~]. RECORD RETENTION [~~OF RECORDS RELATING TO CERTAIN CASUAL SALES~~]. (a) Each licensed salvage

vehicle dealer or insurance company that sells a nonrepairable motor vehicle or a salvage motor vehicle at a casual sale shall keep on the business premises of the dealer or the insurance company a list of all casual sales made during the preceding 36-month period that contains:

(1) the date of the sale;

(2) the name of the purchaser;

(3) the name of the jurisdiction that issued the identification document provided by the purchaser, as shown on the document; and

(4) the vehicle identification number.

(b) The salvage vehicle dealer shall keep on the business premises of the dealer, until the third anniversary of the date the report on the motor vehicle is submitted to the department, a record of the vehicle, its ownership, and its condition as dismantled, scrapped, or destroyed.

SECTION 40.047. Section 501.102, Transportation Code, is renumbered as Section 501.109, Transportation Code, and amended to read as follows:

Sec. 501.109 [~~501.102~~]. OFFENSES. (a) A person commits an offense if the person:

(1) applies to the department for a regular [~~certificate of~~] title for a motor vehicle; and

(2) knows or reasonably should know that:

(A) the vehicle is a nonrepairable motor vehicle that has been repaired, rebuilt, or reconstructed;

(B) the vehicle identification number assigned

to the motor vehicle belongs to a nonrepairable motor vehicle that has been repaired, rebuilt, or reconstructed;

(C) the title issued to the motor vehicle belongs to a nonrepairable motor vehicle that has been repaired, rebuilt, or reconstructed; or

(D) [~~the vehicle identification number assigned to the motor vehicle belongs to an export-only motor vehicle;~~

[~~(E) the motor vehicle is an export-only motor vehicle; or~~

[~~(F)~~] the motor vehicle is a nonrepairable motor vehicle or salvage motor vehicle for which a nonrepairable vehicle title, salvage vehicle title, or comparable ownership document issued by another state or jurisdiction has not been issued.

(b) A person commits an offense if the person knowingly sells, transfers, or releases a salvage motor vehicle in violation of this subchapter.

(c) A person commits an offense if the person knowingly fails or refuses to surrender a regular certificate of title after the person:

(1) receives a notice from an insurance company that the motor vehicle is a nonrepairable or salvage motor vehicle; or

(2) knows the vehicle has become a nonrepairable motor vehicle or salvage motor vehicle under Section 501.1001 [~~501.094~~].

(d) Except as provided by Subsection (e), an offense under this section is a Class C misdemeanor.

(e) If it is shown on the trial of an offense under this section that the defendant has been previously convicted of:

(1) one offense under this section, the offense is a Class B misdemeanor; or

(2) two or more offenses under this section, the offense is a state jail felony.

SECTION 40.048. Section 501.106, Transportation Code, is renumbered as Section 501.110, Transportation Code, and amended to read as follows:

Sec. 501.110 [~~501.106~~]. ENFORCEMENT OF SUBCHAPTER. (a) This subchapter shall be enforced by the department and any other governmental or law enforcement entity, including the Department of Public Safety, and the personnel of the entity as provided by this subchapter.

(b) The department, an agent, officer, or employee of the department, or another person enforcing this subchapter is not liable to a person damaged or injured by an act or omission relating to the issuance of a [~~regular certificate of~~] title, nonrepairable vehicle title, nonrepairable record of title, [~~or~~] salvage vehicle title, or salvage record of title under this subchapter.

SECTION 40.049. Section 501.111(a), Transportation Code, is amended to read as follows:

(a) Except as provided by Subsection (b), a person may perfect a security interest in a motor vehicle that is the subject of a first or subsequent sale only by recording the security interest on the [~~certificate of~~] title as provided by this chapter.

SECTION 40.050. Sections 501.113(a) and (b), Transportation Code, are amended to read as follows:

(a) Recordation of a lien under this chapter is considered

to occur when the department's titling system is updated or the department [~~county assessor-collector:~~

[~~(1) is presented with an application for a certificate of title that discloses the lien with tender of the filing fee; or~~

[~~(2)~~] accepts the application of title that discloses the lien with the filing fee.

(b) For purposes of Chapter 9, Business & Commerce Code, the time of recording a lien under this chapter is considered to be the time of filing the security interest, and on such recordation the recorded lienholder and assignees under Section 501.114 will obtain priority over the rights of a lien creditor as defined by Section 9.102, Business & Commerce Code, for so long as the lien is recorded on the title.

SECTION 40.051. Section 501.114, Transportation Code, is amended to read as follows:

Sec. 501.114. ASSIGNMENT OF LIEN. (a) A lienholder may assign a lien recorded under Section 501.113 without making any filing or giving any notice under this chapter. The lien assigned remains valid and perfected and retains its priority, securing the obligation assigned to the assignee, against transferees from and creditors of the original debtor, including lien creditors, as defined by Section 9.102, Business & Commerce Code.

(b) An assignee or assignor may, but is not required to in order to retain the validity, perfection, and priority of the lien assigned, as evidence of the assignment of a lien recorded under Section 501.113 [~~by~~]:

(1) apply [~~applying~~] to the department [~~county assessor-collector~~] for the assignee to be named as lienholder on the certificate of title [~~assignment of the lien~~]; and

(2) notify [~~notifying~~] the debtor of the assignment.

(c) Failure [~~(b) A lienholder's failure~~] to make an application under Subsection (b) or to notify a debtor of an assignment does not create a cause of action against the recorded lienholder or the assignor or the assignee or affect the continuation of the perfected status of the assigned lien in favor of the assignee against transferees from and creditors of the original debtor, including lien creditors, as defined by Section 9.102, Business & Commerce Code.

(d) [~~(c)~~] An application under Subsection (b) [~~(a)~~] must be acknowledged[~~:~~

[~~(1) signed~~] by the assignee [~~person~~] to whom the lien is assigned[~~; and~~

[~~(2) accompanied by:~~

[~~(A) the applicable fee;~~

[~~(B) a copy of the assignment agreement executed by the parties; and~~

[~~(C) the certificate of title on which the lien to be assigned is recorded~~].

(e) [~~(d)~~] On receipt of the completed application and fee, the department may:

(1) [~~may~~] amend the department's records to substitute the assignee [~~subsequent lienholder~~] for the recorded [~~previous~~] lienholder; and

(2) [~~shall~~] issue a new [~~certificate of~~] title as provided by this chapter [~~Section 501.027~~].

(f) Regardless of whether application is made for the assignee to be named as lienholder on the title, the [~~(e) The issuance of a certificate of title under Subsection (d) is recordation of the assignment. The~~] time of the recordation of a lien assigned under this section is considered to be the time the lien was initially recorded under Section 501.113.

(g) Notwithstanding Subsections (a) through (f) and procedures that may be conducted under those subsections, the assignment of a lien does not affect the procedures applicable to the foreclosure of a worker's lien under Chapter 70, Property Code, or the rights of the holder of a worker's lien. Notice given to the last known lienholder of record, as provided by that chapter, is adequate to allow foreclosure under that chapter.

(h) Notwithstanding Subsections (a) through (f) and the procedures that may be conducted under those subsections, the assignment of a lien does not affect the procedures applicable to the release of a holder's lien under Section 348.408, Finance Code.

SECTION 40.052. Section 501.115, Transportation Code, is amended to read as follows:

Sec. 501.115. DISCHARGE OF LIEN. (a) When a debt or claim secured by a lien has been satisfied, the lienholder shall, within a reasonable time not to exceed the maximum time allowed by Section 348.408, Finance Code, execute and deliver to the owner, or the owner's designee, a discharge of the lien in [~~on~~] a manner [~~form~~] prescribed by the department.

(b) The owner may submit [~~present~~] the discharge and [~~certificate of~~] title to the department for [~~county assessor-collector with an application for a new certificate of title and the department shall issue~~] a new [~~certificate of~~] title.

SECTION 40.053. Section 501.116, Transportation Code, is amended to read as follows:

Sec. 501.116. CANCELLATION OF DISCHARGED LIEN. The department may cancel a discharged lien that has been recorded on a [~~certificate of~~] title for 10 [~~six~~] years or more if the recorded lienholder:

(1) does not exist; or

(2) cannot be located for the owner to obtain a release of the lien.

SECTION 40.054. Sections 501.134(a), (b), (c), (d), (g), and (i), Transportation Code, are amended to read as follows:

(a) If a printed [~~certificate of~~] title is lost or destroyed, the owner or lienholder disclosed on the title [~~certificate~~] may obtain, in the manner provided by this section and department rule, a certified copy of the lost or destroyed [~~certificate of~~] title directly from the department by applying in [~~on~~] a manner [~~form~~] prescribed by the department and paying a fee of $2. A fee collected under this subsection shall be deposited to the credit of the state highway fund and may be spent only as provided by Section 501.138.

(b) If a lien is disclosed on a [~~certificate of~~] title, the department may issue a certified copy of the original [~~certificate of~~] title only to the first lienholder or the lienholder's verified

agent.

(c) The department must plainly mark "certified copy" on the face of a certified copy issued under this section [~~, and each subsequent certificate issued for the motor vehicle until the vehicle is transferred~~]. A subsequent purchaser or lienholder of the vehicle only acquires the rights, title, or interest in the vehicle held by the holder of the certified copy.

(d) A purchaser or lienholder of a motor vehicle having a certified copy issued under this section may at the time of the purchase or establishment of the lien require that the seller or owner indemnify the purchaser or lienholder and all subsequent purchasers of the vehicle against any loss the person may suffer because of a claim presented on the original [~~certificate of~~] title.

(g) The department may issue a certified copy of a [~~certificate of~~] title [~~before the fourth business day after the date application is made~~] only if the applicant:

(1) is the registered owner of the vehicle, the holder of a recorded lien against the vehicle, or a verified agent of the owner or lienholder; and

(2) submits personal identification, including a photograph, issued by an agency of this state or the United States.

(i) The department may establish acceptable identification requirements for [~~If~~] an applicant for a certified copy of a certificate of title who is not a person [~~other than a person~~] described by Subsection (g)(1)[~~, the department may issue a certified copy of the certificate of title only by mail~~].

SECTION 40.055. Section 501.135(a), Transportation Code, is amended to read as follows:

(a) The department shall:

(1) make a record of each report to the department that a motor vehicle registered in this state has been stolen or concealed in violation of Section 32.33, Penal Code; and

(2) note the fact of the report in the department's records [~~of the vehicle's certificate of title~~].

SECTION 40.056. Sections 501.138(a), (b), and (b-1), Transportation Code, are amended to read as follows:

(a) An applicant for a [~~certificate of~~] title, other than the state or a political subdivision of the state, must pay [~~the county assessor-collector~~] a fee of:

(1) $33 if the applicant's residence is a county located within a nonattainment area as defined under Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407), as amended, or is an affected county, as defined by Section 386.001, Health and Safety Code; or

(2) $28 if the applicant's residence is any other county.

(b) The fees [~~county assessor-collector~~] shall be distributed as follows [~~send~~]:

(1) $5 of the fee to the county treasurer for deposit in the officers' salary fund;

(2) $8 of the fee to the department:

(A) together with the application within the time prescribed by Section 501.023; or

(B) if the fee is deposited in an interest-bearing account or certificate in the county depository or invested in an investment authorized by Subchapter A, Chapter 2256, Government Code, not later than the 35th day after the date on which the fee is received; and

(3) the following amount to the comptroller at the time and in the manner prescribed by the comptroller:

(A) $20 of the fee if the applicant's residence is a county located within a nonattainment area as defined under Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407), as amended, or is an affected county, as defined by Section 386.001, Health and Safety Code; or

(B) $15 of the fee if the applicant's residence is any other county.

(b-1) Fees collected under Subsection (b) to be sent to the comptroller shall be deposited [~~as follows:~~

[~~(1) before September 1, 2008, to the credit of the Texas emissions reduction plan fund; and~~

[~~(2) on or after September 1, 2008,~~] to the credit of the Texas Mobility Fund, except that $5 of each fee imposed under Subsection (a)(1) and deposited on or after September 1, 2008, and before September 1, 2015, shall be deposited to the credit of the Texas emissions reduction plan fund.

SECTION 40.057. Section 520.031, Transportation Code, as amended by Chapters 836 (H.B. 1743) and 1423 (H.B. 2409), Acts of the 76th Legislature, Regular Session, 1999, is transferred to Subchapter H, Chapter 501, Transportation Code, renumbered as

Section 501.145, Transportation Code, and reenacted and amended to read as follows:

Sec. 501.145 [~~520.031~~]. FILING BY PURCHASER [~~TRANSFEREE~~]; APPLICATION FOR TRANSFER OF TITLE [~~AND REGISTRATION~~]. (a) Not later than the 30th [~~20th working~~] day after the date of assignment on [~~receiving~~] the documents [~~under Section 520.022 or 520.0225~~], the purchaser [~~transferee~~] of the used motor vehicle shall file with the county assessor-collector:

(1) [~~the license receipt and~~] the certificate of title or other evidence of title; or

(2) if appropriate, a document described by Section 502.457 [~~520.0225(b)(1) or (2)~~] and the [~~certificate of~~] title or other evidence of ownership [~~title~~].

(b) The filing under Subsection (a) is an application for transfer of title as required under this chapter [~~Chapter 501~~] and [~~, if the license receipt is filed,~~] an application for transfer of the registration of the motor vehicle.

(c) [~~In this section, "working day" means any day other than a Saturday, a Sunday, or a holiday on which county offices are closed.~~]

[~~(d)~~] Notwithstanding Subsection (a), if the purchaser [~~transferee~~] is a member of the armed forces of the United States, a member of the Texas National Guard or of the National Guard of another state serving on active duty under an order of the president of the United States, or a member of a reserve component of the armed forces of the United States serving on active duty under an order of the president of the United States, the documents

described by Subsection (a) must be filed with the county assessor-collector not later than the 60th [~~working~~] day after the date of assignment of ownership [~~their receipt by the transferee~~].

SECTION 40.058. Section 520.023, Transportation Code, is transferred to Subchapter H, Chapter 501, Transportation Code, renumbered as Section 501.146, Transportation Code, and amended to read as follows:

Sec. 501.146 [~~520.023~~]. [~~POWERS AND DUTIES OF DEPARTMENT ON TRANSFER OF USED~~] VEHICLE TRANSFER NOTIFICATION. (a) On receipt of a written notice of transfer from the seller [~~transferor~~] of a motor vehicle, the department shall indicate the transfer on the motor vehicle records maintained by the department. As an alternative to a written notice of transfer, the department shall establish procedures that permit the seller [~~transferor~~] of a motor vehicle to electronically submit a notice of transfer to the department through the department's Internet website. A notice of transfer provided through the department's Internet website is not required to bear the signature of the seller [~~transferor~~] or include the date of signing.

(b) [~~The department may design the written notice of transfer to be part of the certificate of title for the vehicle.~~] The notice of transfer [~~form~~] shall be provided by the department and must include a place for the seller [~~transferor~~] to state:

(1) a complete description of the vehicle as prescribed by the department [~~identification number of the vehicle~~];

(2) [~~the number of the license plate issued to the~~

~~vehicle, if any;~~

[~~(3)~~] the full name and address of the seller [~~transferor~~];

(3) [~~(4)~~] the full name and address of the purchaser [~~transferee~~];

(4) [~~(5)~~] the date the seller [~~transferor~~] delivered possession of the vehicle to the purchaser [~~transferee~~];

(5) [~~(6)~~] the signature of the seller [~~transferor~~]; and

(6) [~~(7)~~] the date the seller [~~transferor~~] signed the form.

(c) This subsection applies only if the department receives notice under Subsection (a) before the 30th day after the date the seller [~~transferor~~] delivered possession of the vehicle to the purchaser [~~transferee~~]. After the date of the transfer of the vehicle shown on the records of the department, the purchaser [~~transferee~~] of the vehicle shown on the records is rebuttably presumed to be:

(1) the owner of the vehicle; and

(2) subject to civil and criminal liability arising out of the use, operation, or abandonment of the vehicle, to the extent that ownership of the vehicle subjects the owner of the vehicle to criminal or civil liability under another provision of law.

(d) The department may adopt[~~:~~

[~~(1)~~] rules to implement this section [~~; and~~

[~~(2) a fee for filing a notice of transfer under this~~

~~section in an amount not to exceed the lesser of the actual cost to the department of implementing this section or $5~~].

(e) This section does not impose or establish civil or criminal liability on the owner of a motor vehicle who transfers ownership of the vehicle but does not disclose the transfer to the department.

(f) [~~This section does not require the department to issue a certificate of title to a person shown on a notice of transfer as the transferee of a motor vehicle.~~] The department may not issue a [~~certificate of~~] title or register [~~for~~] the vehicle until the purchaser [~~transferee~~] applies for a title to the county assessor-collector as provided by this chapter [~~Chapter 501~~].

SECTION 40.059. Section 520.032, Transportation Code, is transferred to Subchapter H, Chapter 501, Transportation Code, renumbered as Section 501.147, Transportation Code, and amended to read as follows:

Sec. 501.147 [~~520.032~~]. TITLE TRANSFER [~~FEE~~]; LATE FEE. (a) [~~The transferee of a used motor vehicle shall pay, in addition to any fee required under Chapter 501 for the transfer of title, a transfer fee of $2.50 for the transfer of the registration of the motor vehicle.~~

[~~(b)~~] If the purchaser [~~transferee~~] does not file the application for the transfer of title during the period provided by Section 501.145 [~~520.031~~], the purchaser [~~transferee~~] is liable for a late fee to be paid to the county assessor-collector when the application is filed. If the seller [~~transferee~~] holds a general distinguishing number issued under Chapter 503 of this code or

Chapter 2301, Occupations Code, the seller is liable for the late fee in the amount of [~~the late fee is~~] $10. If the seller [~~transferee~~] does not hold a general distinguishing number, subject to Subsection (b) [~~(b-1)~~] the amount of the late fee is $25.

(b) [~~(b-1)~~] If the application is filed after the 60th [~~31st working~~] day after the date the purchaser was assigned ownership of [~~transferee received~~] the documents under Section 501.0721 [~~520.022~~], the late fee imposed under Subsection (a) [~~(b)~~] accrues an additional penalty in the amount of $25 for each subsequent 30-day period, or portion of a 30-day period, in which the application is not filed.

(c) The county assessor-collector and the surety on the county assessor-collector's bond are liable for the late fee if the county assessor-collector does not collect the late fee.

(d) Subsections (a) and (b) [~~and (b-1)~~] do not apply if the motor vehicle is eligible to be issued:

(1) classic vehicle license plates under Section 504.501; or

(2) antique vehicle license plates under Section 504.502.

SECTION 40.060. Section 520.033, Transportation Code, is transferred to Subchapter H, Chapter 501, Transportation Code, renumbered as Section 501.148, Transportation Code, and amended to read as follows:

Sec. 501.148 [~~520.033~~]. ALLOCATION OF FEES. (a) The county assessor-collector may retain as commission for services provided under this subchapter [~~half of each transfer fee~~

~~collected,~~] half of each late fee [~~,~~] and half of each additional penalty collected under Section 501.147 [~~520.032~~].

(b) The county assessor-collector shall report and remit the balance of the fees collected to the department on Monday of each week as other [~~registration~~] fees are required to be reported and remitted.

(c) Of each late fee collected from a person who does not hold a general distinguishing number by [~~that~~] the department [~~receives~~] under Subsection (b), $10 may be used only to fund a statewide public awareness campaign designed to inform and educate the public about the provisions of this chapter.

SECTION 40.061. Section 501.152(b), Transportation Code, is amended to read as follows:

(b) It is not a violation of this section for the beneficial owner of a vehicle to sell or offer to sell a vehicle without having possession of the certificate of title to the vehicle if the sole reason he or she does not have possession of the certificate of title is that the title is in the possession of a lienholder who has not complied with the terms of Section 501.115(a) [~~of this code~~].

SECTION 40.062. Section 501.153, Transportation Code, is amended to read as follows:

Sec. 501.153. APPLICATION FOR TITLE FOR STOLEN OR CONCEALED VEHICLE. A person commits an offense if the person applies for a [~~certificate of~~] title for a motor vehicle that the person knows is stolen or concealed in violation of Section 32.33, Penal Code.

SECTION 40.063. Section 501.154, Transportation Code, is amended to read as follows:

Sec. 501.154. ALTERATION OF CERTIFICATE OR RECEIPT. A person commits an offense if the person alters a manufacturer's [~~or importer's~~] certificate, a title receipt, or a certificate of title.

SECTION 40.064. Section 501.155(a), Transportation Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly provides false or incorrect information or without legal authority signs the name of another person on:

(1) an application for a [~~certificate of~~] title;

(2) an application for a certified copy of an original [~~certificate of~~] title;

(3) an assignment of title for a motor vehicle;

(4) a discharge of a lien on a title for a motor vehicle; or

(5) any other document required by the department or necessary to the transfer of ownership of a motor vehicle.

SECTION 40.065. The heading to Section 501.158, Transportation Code, is amended to read as follows:

Sec. 501.158. SEIZURE OF STOLEN VEHICLE OR VEHICLE WITH ALTERED VEHICLE IDENTIFICATION [~~SERIAL~~] NUMBER.

SECTION 40.066. Section 520.035, Transportation Code, is transferred to Subchapter H, Chapter 501, Transportation Code, renumbered as Section 501.161, Transportation Code, and amended to read as follows:

Sec. 501.161 [~~520.035~~]. EXECUTION OF TRANSFER DOCUMENTS; PENALTY. (a) A person who transfers a motor vehicle in this state

shall complete [~~execute~~] in full and date as of the date of the transfer all documents relating to the transfer of registration or [~~certificate of~~] title. A person who transfers a vehicle commits an offense if the person fails to execute the documents in full.

(b) A person commits an offense if the person:

(1) accepts a document described by Subsection (a) that does not contain all of the required information; or

(2) alters or mutilates such a document.

(c) An offense under this section is a misdemeanor punishable by a fine of not less than $50 and not more than $200.

SECTION 40.067. Subchapter H, Chapter 501, Transportation Code, is amended by adding Sections 501.162 and 501.163 to read as follows:

Sec. 501.162. MOTOR NUMBER REQUIRED FOR REGISTRATION; PENALTY. A person commits an offense if the person violates Section 501.0331. An offense under this section is a misdemeanor punishable by a fine of not less than $50 and not more than $100.

Sec. 501.163. APPLICATION FOR MOTOR NUMBER RECORD; PENALTY. A person who fails to comply with Section 501.0332 commits an offense. An offense under this section is a misdemeanor punishable by a fine of not less than $10 and not more than $100.

SECTION 40.068. Chapter 501, Transportation Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. ELECTRONIC TITLING SYSTEM

Sec. 501.171. APPLICATION OF SUBCHAPTER. This subchapter applies only if the department implements a titling system under Section 501.173.

Sec. 501.172. DEFINITIONS. In this subchapter:

(1) "Document" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(2) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) "Electronic document" means a document that is in an electronic form.

(4) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

(5) "Paper document" means a document that is in printed form.

Sec. 501.173. ELECTRONIC TITLING SYSTEM. (a) The department by rule may implement an electronic titling system.

(b) A record of title maintained electronically by the department in the titling system is the official record of vehicle ownership unless the owner requests that the department issue a printed title.

Sec. 501.174. VALIDITY OF ELECTRONIC DOCUMENTS. (a) If this chapter requires that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is met by an electronic document that complies with this subchapter.

(b) If a law requires that a document be signed, the requirement is satisfied by an electronic signature.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal is not required to accompany an electronic signature.

Sec. 501.175. RECORDING OF DOCUMENTS. (a) Under the titling system, the department may:

(1) receive, index, store, archive, and transmit electronic documents;

(2) provide for access to, and for search and retrieval of, documents and information by electronic means; and

(3) convert into electronic form:

(A) paper documents that it accepts for the titling of a motor vehicle; and

(B) information recorded and documents that were accepted for the titling of a motor vehicle before the titling system was implemented.

(b) The department shall continue to accept paper documents after the titling system is implemented.

Sec. 501.176. PAYMENT OF FEES BY ELECTRONIC FUNDS TRANSFER OR CREDIT CARD. (a) The department may accept payment by electronic funds transfer, credit card, or debit card of any title or registration fee that the department is required or authorized to collect under this chapter.

(b) The department may collect a fee for processing a title or registration payment by electronic funds transfer, credit card, or debit card. The amount of the fee must be reasonably related to the expense incurred by the department in processing the payment by electronic funds transfer, credit card, or debit card and may not be more than five percent of the amount of the registration and titling fee being paid.

(c) In addition to the fee authorized by Subsection (b), the department may collect from a person making payment by electronic funds transfer, credit card, or debit card an amount equal to the amount of any registration and titling transaction fee charged to the department by a vendor providing services in connection with payments made by electronic funds transfer, credit card, or debit card. The limitation prescribed by Subsection (b) on the amount of a fee does not apply to a fee collected under this subsection.

(d) Online electronic commerce must be processed in accordance with Chapter 2054, Government Code.

Sec. 501.177. SERVICE CHARGE. If, for any reason, the payment of a fee under this chapter by electronic funds transfer, credit card, or debit card is not honored by the funding institution, or by the electronic funds transfer, credit card, or debit card company on which the funds are drawn, the department may collect from the person who owes the fee being collected a registration and titling service charge that is for the collection of that original amount and is in addition to the original fee. The amount of the service charge must be reasonably related to the expense incurred by the department in collecting the original

amount.

Sec. 501.178. DISPOSITION OF FEES. All fees collected under this subchapter shall be deposited to the credit of the state highway fund.

Sec. 501.179. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This subchapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001 et seq.) but does not modify, limit, or supersede Section 101(c) of that Act (15 U.S.C. Section 7001(c)) or authorize electronic delivery of any of the notices described in Section 103(b) of that Act (15 U.S.C. Section 7003(b)).

SECTION 40.069. Section 502.001, Transportation Code, is amended to read as follows:

Sec. 502.001. DEFINITIONS. In this chapter:

(1) "All-terrain vehicle" means a motor vehicle that is:

(A) equipped with a saddle, bench, or bucket seats for the use of:

(i) the rider; and

(ii) a passenger, if the motor vehicle is designed by the manufacturer to transport a passenger;

(B) designed to propel itself with three or more tires in contact with the ground;

(C) designed by the manufacturer for off-highway use; and

(D) not designed by the manufacturer primarily

for farming or lawn care.

(2) "Apportioned license plate" means a license plate issued in lieu of a truck license plate or combination license plate to a motor carrier in this state who proportionally registers a vehicle owned by the carrier in one or more other states.

(3) "Combination license plate" means a license plate issued for a truck or truck-tractor that is used or intended to be used in combination with a semitrailer that has a gross weight of more than 6,000 pounds.

(4) "Combined gross weight" means the empty weight of the truck-tractor or commercial motor vehicle combined with the empty weight of the heaviest semitrailer used or to be used in combination with the truck-tractor or commercial motor vehicle plus the heaviest net load to be carried on the combination during the registration year.

(4-a) "Commercial fleet" has the meaning assigned by Section 501.002.

(5) "Commercial motor vehicle" means a commercial motor vehicle as defined by Section 644.001 [~~, other than a motorcycle, designed or used primarily to transport property. The term includes a passenger car reconstructed and used primarily for delivery purposes. The term does not include a passenger car used to deliver the United States mail~~].

(6) "Construction machinery" means a vehicle that:

(A) is used for construction;

(B) is built from the ground up;

(C) is not mounted or affixed to another vehicle

such as a trailer;

(D) was originally and permanently designed as machinery;

(E) was not in any way originally designed to transport persons or property; and

(F) does not carry a load, including fuel.

(7) "Credit card" has the meaning assigned by Section 501.002.

(8) "Debit card" has the meaning assigned by Section 501.002.

(9) [~~(3)~~] "Department" means the Texas Department of Transportation.

(10) "Electric bicycle" has the meaning assigned by Section 541.201.

(11) "Electric personal assistive mobility device" has the meaning assigned by Section 551.201.

(12) "Empty weight" means the unladen weight of the truck-tractor or commercial motor vehicle and semitrailer combination fully equipped, as certified by a public weigher or license and weight inspector of the Department of Public Safety.

(13) [~~(4)~~] "Farm trailer" or "farm semitrailer" means a vehicle [~~semitrailer~~] designed and used primarily as a farm vehicle.

(14) [~~(5)~~] "Farm tractor" has the meaning assigned by Section 541.201 [~~means a motor vehicle designed and used primarily as a farm implement for drawing other implements of husbandry~~].

(15) "Forestry vehicle" [~~(6) "Farm trailer"~~] means a

vehicle [~~trailer designed and~~] used exclusively for transporting forest products in their natural state, including logs, debarked logs, untreated ties, stave bolts, plywood bolts, pulpwood billets, wood chips, stumps, sawdust, moss, bark, and wood shavings, and property used in production of those products [~~primarily as a farm vehicle~~].

(16) [~~(7)~~] "Golf cart" means a motor vehicle designed by the manufacturer primarily for transporting persons on a golf course.

(17) "Gross vehicle weight" has the meaning assigned by Section 541.401.

(18) [~~(8)~~] "Implements of husbandry" has the meaning assigned by Section 541.201 [~~means farm implements, machinery, and tools as used in tilling the soil, including self-propelled machinery specifically designed or adapted for applying plant food materials or agricultural chemicals but not specifically designed or adapted for the sole purpose of transporting the materials or chemicals. The term does not include a passenger car or truck~~].

(19) [~~(9)~~] "Light truck" has the meaning assigned by Section 541.201 [~~means a commercial motor vehicle that has a manufacturer's rated carrying capacity of one ton or less~~].

(20) [~~(10)~~] "Moped" has the meaning assigned by Section 541.201.

(21) [~~(11)~~] "Motor bus" includes every vehicle used to transport persons on the public highways for compensation, other than:

(A) a vehicle operated by muscular power; or

(B) a municipal bus.

(22) [~~(12)~~] "Motorcycle" has the meaning assigned by Section 541.201 [~~means a motor vehicle designed to propel itself with not more than three wheels in contact with the ground. The term does not include a tractor~~].

(23) [~~(13)~~] "Motor vehicle" means a vehicle that is self-propelled.

(24) "Motorized mobility device" has the meaning assigned by Section 542.009.

(25) [~~(14)~~] "Municipal bus" includes every vehicle, other than a passenger car, used to transport persons for compensation exclusively within the limits of a municipality or a suburban addition to the municipality.

(26) "Net carrying capacity" is the heaviest net load to be carried on the vehicle, but not less than the manufacturer's rated carrying capacity.

(27) "Oil well servicing, cleanout, or drilling machinery":

(A) has the meaning assigned by Section 623.149; or

(B) means:

(i) a mobile crane that is an unladen, self-propelled vehicle constructed as a machine and used solely to raise, shift, or lower heavy weights by means of a projecting, swinging mast with an engine for power on a chassis permanently constructed or assembled for such purpose; and

(ii) for which the owner has secured a

permit from the department under Section 623.142.

(28) [~~(15)~~] "Operate temporarily on the highways" means to travel between:

(A) different farms;

(B) a place of supply or storage and a farm; or

(C) an owner's farm and the place at which the owner's farm produce is prepared for market or is marketed.

(29) [~~(16)~~] "Owner" means a person who:

(A) holds the legal title of a vehicle;

(B) has the legal right of possession of a vehicle; or

(C) has the legal right of control of a vehicle.

(30) [~~(17)~~] "Passenger car" has the meaning assigned by Section 541.201 [~~means a motor vehicle, other than a motorcycle, golf cart, light truck, or bus, designed or used primarily for the transportation of persons~~].

(31) "Power sweeper" means an implement, with or without motive power, designed for the removal by a broom, vacuum, or regenerative air system of debris, dirt, gravel, litter, or sand from asphaltic concrete or cement concrete surfaces, including surfaces of parking lots, roads, streets, highways, and warehouse floors. The term includes a vehicle on which the implement is permanently mounted if the vehicle is used only as a power sweeper.

(32) "Private bus" means a bus that:

(A) is not operated for hire; and

(B) is not classified as a municipal bus or a motor bus.

(33) [~~(18)~~] "Public highway" includes a road, street, way, thoroughfare, or bridge:

(A) that is in this state;

(B) that is for the use of vehicles;

(C) that is not privately owned or controlled; and

(D) over which the state has legislative jurisdiction under its police power.

(34) [~~(19)~~] "Public property" means property owned or leased by this state or a political subdivision of this state.

(35) [~~(20)~~] "Road tractor" means a vehicle designed for the purpose of mowing the right-of-way of a public highway or a motor vehicle designed or used for drawing another vehicle or a load and not constructed to carry:

(A) an independent load; or

(B) a part of the weight of the vehicle and load to be drawn.

(36) [~~(21)~~] "Semitrailer" means a vehicle designed or used with a motor vehicle so that part of the weight of the vehicle and its load rests on or is carried by another vehicle.

(37) "Token trailer" means a semitrailer that:

(A) has a gross weight of more than 6,000 pounds; and

(B) is operated in combination with a truck or a truck-tractor that has been issued:

(i) an apportioned license plate;

(ii) a combination license plate; or

(iii) a forestry vehicle license plate.

(38) "Tow truck" means a motor vehicle adapted or used to tow, winch, or otherwise move another motor vehicle.

(39) [~~(22)~~] "Trailer" means a vehicle that:

(A) is designed or used to carry a load wholly on its own structure; and

(B) is drawn or designed to be drawn by a motor vehicle.

(40) "Travel trailer" has the meaning assigned by Section 501.002.

(41) [~~(23)~~] "Truck-tractor" means a motor vehicle:

(A) designed and used primarily for drawing another vehicle; and

(B) not constructed to carry a load other than a part of the weight of the vehicle and load to be drawn.

(42) [~~(24)~~] "Vehicle" means a device in or by which a person or property is or may be transported or drawn on a public highway, other than a device used exclusively on stationary rails or tracks.

SECTION 40.070. Section 502.0021, Transportation Code, is amended to read as follows:

Sec. 502.0021. RULES AND FORMS. (a) The department may adopt rules to administer this chapter.

(b) The department shall post on the Internet or[~~:~~

[~~(1) prescribe forms determined by the department to be necessary for the administration of this chapter; and~~

[~~(2)~~] provide each county assessor-collector with a

sufficient [~~an adequate~~] supply of any [~~each form~~] necessary forms [~~for the performance of a duty under this chapter by the assessor-collector~~].

SECTION 40.071. Section 502.052, Transportation Code, is transferred to Subchapter A, Chapter 502, Transportation Code, renumbered as Section 502.00211, Transportation Code, and amended to read as follows:

Sec. 502.00211 [~~502.052~~]. DESIGN OF [~~LICENSE PLATES AND~~] REGISTRATION INSIGNIA [~~; REFLECTORIZED MATERIAL~~]. [~~(a)~~] The department shall prepare the designs and specifications [~~of license plates and devices selected by the Texas Transportation Commission~~] to be used as the registration insignia.

[~~(b) The department shall design each license plate to include a design at least one-half inch wide that represents in silhouette the shape of Texas and that appears between letters and numerals. The department may omit the silhouette of Texas from specially designed license plates.~~

[~~(c) To promote highway safety, each license plate shall be made with a reflectorized material that provides effective and dependable brightness for the period for which the plate is issued. The purchase of reflectorized material shall be submitted to the comptroller for approval.~~]

SECTION 40.072. Section 502.0022, Transportation Code, is amended to read as follows:

Sec. 502.0022. CONSOLIDATED REGISTRATION OF [~~FLEET~~] VEHICLES. (a) The department shall develop and implement a system of registration so that an owner of more than one motor vehicle or

trailer that is subject to registration under this chapter [~~a fleet of motor vehicles~~] may consolidate the registration of the motor vehicles [~~in the fleet~~] as an alternative to the separate registration of each motor vehicle [~~in the fleet~~]. The owner may designate an initial or a renewal registration period for a vehicle or trailer so that the registration period expires on the same date as the registration period for another vehicle or trailer previously registered by that owner.

(b) A system of consolidated registration under this section must allow the owner of the [~~a fleet of~~] motor vehicles to register:

(1) all [~~an entire fleet of~~] motor vehicles in the county of the owner's residence or principal place of business; or

(2) [~~those vehicles in a fleet of~~] vehicles that are operated most regularly in the same county by registering the vehicles in that county.

(c) With the consent of the [~~The~~] department, the registration shall be issued in accordance with Section 502.044 [~~by rule shall define "fleet" for purposes of this section.~~

[~~(d) The department may adopt rules to administer this section~~].

SECTION 40.073. (a) Subchapter A, Chapter 502, Transportation Code, is amended by adding Section 502.0023 to read as follows:

Sec. 502.0023. EXTENDED REGISTRATION OF COMMERCIAL FLEET VEHICLES. (a) The department shall develop and implement a system of registration to allow an owner of a commercial fleet to register

the motor vehicles in the commercial fleet for an extended registration period of not less than one year or more than eight years. The owner may select the number of years for registration under this section within that range and register the commercial fleet for that period. Payment for the entire registration period selected is due at the time of registration.

(b) In addition to the registration fees prescribed by Subchapter D, an owner registering a commercial fleet under this section shall pay:

(1) an annual commercial fleet registration fee of $10 per motor vehicle; and

(2) a one-time license plate manufacturing fee of $1.50 for each issued motor vehicle license plate.

(c) A license plate issued under this section may, at the registered owner's option, include on the legend the name or logo of the business entity that owns the vehicle. The license plates shall conform in all respects to the provisions of this chapter, except as specified in this section.

(d) For a commercial fleet registered under this section, payment of all registration license taxes and fees under this chapter must be paid in advance for the extended registration period selected under Subsection (a). On payment of all registration license taxes and fees, no annual validation window insignia is required for the entire period paid for in advance. A registration card must be issued for the period elected only for vehicles that exceed 10,000 pounds in weight.

(e) Failure to comply with this section may result in

suspension or termination from the commercial fleet program.

(f) The department shall adopt rules to implement this section.

(g) The department and the counties in their budgeting processes shall consider any temporary increases and resulting decreases in revenue that will result from the use of the process provided by this section.

(b) The Texas Department of Transportation shall adopt the rules and establish the system required under Section 502.0023, Transportation Code, as added by this section, not later than September 1, 2010.

(c) This section takes effect September 1, 2009.

SECTION 40.074. Section 502.185, Transportation Code, is transferred to Subchapter A, Chapter 502, Transportation Code, renumbered as Section 502.010, Transportation Code, and amended to read as follows:

Sec. 502.010 [~~502.185~~]. COUNTY SCOFFLAW [~~REFUSAL TO REGISTER VEHICLE IN CERTAIN COUNTIES~~]. (a) A county assessor-collector or the department may refuse to register a motor vehicle if the assessor-collector or the department receives information that the owner of the vehicle owes the county money for a fine, fee, or tax that is past due.

(b) A county may contract with the department to provide information to the department necessary to make a determination under Subsection (a).

(c) A county that has a contract under Subsection (b) shall notify the department regarding a person for whom the county

assessor-collector or the department has refused to register a motor vehicle on:

(1) the person's payment or other means of discharge of the past due fine, fee, or tax; or

(2) perfection of an appeal of the case contesting payment of the fine, fee, or tax.

(d) After notice is received under Subsection (c), the county assessor-collector or the department may not refuse to register the motor vehicle under Subsection (a).

(e) A contract under Subsection (b) must be entered into in accordance with Chapter 791, Government Code, and is subject to the ability of the parties to provide or pay for the services required under the contract.

(f) A county that has a contract under Subsection (b) may impose an additional fee to a person paying a fine, fee, or tax to the county after it is past due. The additional fee may be used only to reimburse the department or the county for its expenses for providing services under the contract.

(g) In this section:

(1) a fine, fee, or tax is considered past due if it is unpaid 90 or more days after the date it is due; and

(2) registration of a motor vehicle includes renewal of the registration of the vehicle.

(h) This section does not apply to the registration of a motor vehicle under Section 501.0234, unless the vehicle is titled and registered in the name of a person who holds a general distinguishing number.

SECTION 40.075. The heading to Subchapter B, Chapter 502, Transportation Code, is amended to read as follows:

SUBCHAPTER B. REGISTRATION REQUIREMENTS [~~STATE ADMINISTRATION~~]

SECTION 40.076. Section 502.002, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, renumbered as Section 502.040, Transportation Code, and amended to read as follows:

Sec. 502.040 [~~502.002~~]. REGISTRATION REQUIRED; GENERAL RULE. (a) The owner of a motor vehicle, trailer, or semitrailer shall apply for the registration of the vehicle for:

(1) each registration year in which the vehicle is used or to be used on a public highway; and

(2) if the vehicle is unregistered for a registration year that has begun and that applies to the vehicle and if the vehicle is used or to be used on a public highway, the remaining portion of that registration year.

(b) The application must be made in a manner prescribed by [~~to~~] the department through the county assessor-collector of the county in which the owner resides.

(c) A provision of this chapter that conflicts with this section prevails over this section to the extent of the conflict.

(d) A county assessor-collector, a deputy county assessor-collector, or a person acting on behalf of a county assessor-collector is not liable to any person for:

(1) refusing to register a motor vehicle because of the person's failure to submit evidence of residency that complies with the department's rules; or

(2) registering a motor vehicle under this section.

SECTION 40.077. Section 502.157, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, renumbered as Section 502.041, Transportation Code, and amended to read as follows:

Sec. 502.041 [~~502.157~~]. INITIAL REGISTRATION. (a) Notwithstanding Section 502.040 [~~502.002~~], [~~when a motor vehicle must be registered before an application for a certificate of title will be accepted,~~] the owner of a [~~the~~] vehicle may concurrently apply for a [~~certificate of~~] title and for registration through the county assessor-collector of the county in which:

(1) the owner resides; or

(2) the vehicle is purchased or encumbered.

(b) The first time an owner applies for registration of a vehicle, the owner may demonstrate compliance with Section 502.046(a) [~~502.153(a)~~] as to the vehicle by showing proof of financial responsibility in any manner specified in Section 502.046(c) [~~502.153(c)~~] as to:

(1) any vehicle of the owner; or

(2) any vehicle used as part of the consideration for the purchase of the vehicle the owner applies to register.

SECTION 40.078. Section 502.152, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, renumbered as Section 502.042, Transportation Code, and amended to read as follows:

Sec. 502.042 [~~502.152~~]. [~~CERTIFICATE OF~~] TITLE REQUIRED FOR REGISTRATION. [~~(a)~~] The department may not register or renew

the registration of a motor vehicle for which a [~~certificate of~~] title is required under Chapter 501 unless the owner:

(1) obtains a [~~certificate of~~] title for the vehicle; or

(2) presents satisfactory evidence that a [~~certificate of~~] title was previously issued to the owner by the department or another jurisdiction.

[~~(b) This section does not apply to an automobile that was purchased new before January 1, 1936.~~]

SECTION 40.079. Section 502.151, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, renumbered as Section 502.043, Transportation Code, and amended to read as follows:

Sec. 502.043 [~~502.151~~]. APPLICATION FOR REGISTRATION. (a) An application for vehicle registration must:

(1) be made in a manner prescribed and include the information required [~~on a form furnished~~] by the department by rule; and

(2) contain a [~~the~~] full description [~~name and address of the owner~~] of the vehicle as required by department rule [~~:~~

[~~(3) contain a brief description of the vehicle;~~

[~~(4) contain any other information required by the department; and~~

[~~(5) be signed by the owner~~].

(b) [~~For a new motor vehicle, the description of the vehicle must include the vehicle's:~~

[~~(1) trade name;~~

[~~(2) year model;~~

[~~(3) style and type of body;~~

[~~(4) weight, if the vehicle is a passenger car;~~

[~~(5) net carrying capacity and gross weight, if the vehicle is a commercial motor vehicle;~~

[~~(6) vehicle identification number; and~~

[~~(7) date of sale by the manufacturer or dealer to the applicant.~~

[~~(c)~~] An applicant for registration of a commercial motor vehicle, truck-tractor, trailer, or semitrailer must show acceptable proof [~~deliver~~] to the county assessor-collector of [~~an affidavit showing~~] the weight of the vehicle, the maximum load to be carried on the vehicle, and the gross weight for which the vehicle is to be registered. [~~The assessor-collector shall keep the affidavit on file.~~]

(c) [~~(d)~~] In lieu of filing an application during a year as provided by Subsection (a), the owner of a vehicle registered in any state for that year or the preceding year may present the registration receipt and transfer receipt, if any. The county assessor-collector shall accept the receipt as an application for renewal of the registration if the receipt indicates the applicant owns the vehicle. This section allows issuance for registration purposes only but does not authorize the department to issue a certificate of title or record of title.

[~~(e) If an owner or claimed owner has lost or misplaced the registration receipt or transfer receipt for the vehicle, the county assessor-collector shall register the vehicle on the~~

~~person's furnishing to the assessor-collector satisfactory evidence, by affidavit or otherwise, that the person owns the vehicle.~~

[~~(f) A county assessor-collector shall date each registration receipt issued for a vehicle with the date on which the application for registration is made.~~]

SECTION 40.080. Section 502.158, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, renumbered as Section 502.044, Transportation Code, and amended to read as follows:

Sec. 502.044 [~~502.158~~]. REGISTRATION PERIOD [~~YEAR~~]. (a) The department shall designate a vehicle registration year of 12 consecutive months to begin on the first day of a calendar month and end on the last day of the 12th calendar month.

(b) The department shall designate vehicle registration years so as to distribute the work of the department and the county assessor-collectors as uniformly as possible throughout the year. The department may establish separate registration years for any vehicle or classification of vehicle and may adopt rules to administer the year-round registration system.

(c) The department may designate a registration period of less than 12 months to be [~~. The registration fee for a registration period of less than 12 months is~~] computed at a rate of one-twelfth the annual registration fee multiplied by the number of months in the registration period. The department, by rule, may allow payment of [~~may not designate a registration period of more than 12 months, but:~~

[~~(1) with the consent of the department, an owner may pay~~] registration fees for a designated period not to exceed 96 [~~of more than 12~~] months [~~, and~~

[~~(2) an owner of a vehicle may pay registration fees for a designated period of 12, 24, or 36 months.~~

[~~(d) An application for registration shall be made during the two months preceding the date on which the registration expires.~~

[~~(e) The fee to be paid for renewing a registration is the fee that will be in effect on the first day of the vehicle registration year~~].

(d) [~~(g)~~] The department shall issue [~~the applicant for registration who pays registration fees for a designated period of 24 or 36 months~~] a registration receipt and registration insignia that are valid until the expiration of the designated period.

SECTION 40.081. Section 502.176, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, renumbered as Section 502.045, Transportation Code, and amended to read as follows:

Sec. 502.045 [~~502.176~~]. DELINQUENT REGISTRATION. (a) A registration fee [~~prescribed by this chapter~~] for a vehicle becomes delinquent immediately if the vehicle is used on a public highway without the fee having been paid in accordance with this chapter.

(b) An [~~A county assessor-collector that determines that an~~] applicant for registration who provides [~~for which payment of the registration fee is delinquent has provided~~] evidence acceptable to the assessor-collector [~~sufficient~~] to establish

good reason for delinquent registration and who [~~that the application~~] complies with the other requirements for registration under this chapter may [~~shall~~] register the vehicle for a 12-month period that ends on the last day of the 11th month after the month in which the registration occurs under this subsection. The registration period for vehicles registered in accordance with Sections 502.255, 502.431, 502.435, 502.454, 504.401, 504.505, 504.515, and 504.613 [~~502.164, 502.167, 502.203, 502.255, 502.267, 502.277, 502.278, 502.293, as added by Chapter 1222, Acts of the 75th Legislature, Regular Session, 1997, and 502.295, as added by Chapter 625, Acts of the 75th Legislature, Regular Session, 1997,~~] will end on the annual registration date, and the registration fees will be prorated.

(c) A county assessor-collector that determines that an applicant for registration who [~~that~~] is delinquent and has not provided evidence acceptable [~~to the assessor-collector sufficient~~] to establish good reason for delinquent registration but who [~~that the application~~] complies with the other requirements for registration under this chapter shall register the vehicle for a 12-month period without changing the initial month of registration.

(d) A person who has been arrested or received a citation for a violation of Section 502.472 [~~502.402~~] may register the vehicle being operated at the time of the offense [~~with the county assessor-collector~~] for a 12-month period without change to the initial month of registration only if the person:

(1) meets the other requirements for registration

under this chapter; and

(2) pays an additional charge equal to 20 percent of the prescribed fee.

(e) The department by rule [~~county assessor-collector~~] shall adopt a list of evidentiary items sufficient to establish good reason for delinquent registration under Subsection (b) and provide for the [~~forms of~~] evidence that may be used to establish good reason under that subsection. [~~The list of evidentiary items adopted under this section must allow for delinquent registration under Subsection (b) because of:~~

[~~(1) extensive repairs on the vehicle;~~

[~~(2) the absence of the owner of the vehicle from this country;~~

[~~(3) seasonal use of the vehicle; or~~

[~~(4) any other reason determined by the assessor-collector to be a valid explanation for the delinquent registration.~~]

(f) The department by rule shall adopt procedures to implement this section in connection with the delinquent registration of a vehicle registered directly with the department.

SECTION 40.082. Section 502.153, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, renumbered as Section 502.046, Transportation Code, and amended to read as follows:

Sec. 502.046 [~~502.153~~]. EVIDENCE OF FINANCIAL RESPONSIBILITY. (a) Evidence [~~Except as provided by Subsection (j), the owner of a motor vehicle, other than a trailer or~~

~~semitrailer, for which evidence~~] of financial responsibility as [~~is~~] required by Section 601.051 other than for a trailer or semitrailer [~~or a person who represents the owner for purposes of registering a motor vehicle~~] shall be submitted [~~submit evidence of financial responsibility~~] with the application for registration under Section 502.043 [~~502.151~~]. A county assessor-collector may not register the motor vehicle unless the owner or the owner's representative submits the evidence of financial responsibility.

(b) The county assessor-collector shall examine the evidence of financial responsibility to determine whether it complies with Subsection (c). After examination, [~~examining~~] the evidence [~~, the assessor-collector~~] shall be returned [~~return the evidence~~] unless it is in the form of a photocopy or an electronic submission.

(c) In this section, evidence of financial responsibility may be:

(1) a document listed under Section 601.053(a) or verified in compliance with Section 601.452, as added by Chapter 892, Acts of the 79th Legislature, Regular Session, 2005;

(2) a liability self-insurance or pool coverage document issued by a political subdivision or governmental pool under the authority of Chapter 791, Government Code, Chapter 119, Local Government Code, or other applicable law in at least the minimum amounts required by Chapter 601;

(3) a photocopy of a document described by Subdivision (1) or (2); or

(4) an electronic submission of a document or the

information contained in a document described by Subdivision (1) or (2).

(d) A personal automobile policy used as evidence of financial responsibility under this section must comply with Section 1952.052 et seq. and Sections 2301.051 through 2301.055 [~~Article 5.06 or 5.145~~], Insurance Code.

(e) At the time of registration, the county assessor-collector shall provide to a person registering a motor vehicle a [~~separate~~] statement that the motor vehicle [~~being registered~~] may not be operated in this state unless:

(1) liability insurance coverage for the motor vehicle in at least the minimum amounts required by law remains in effect to insure against potential losses; or

(2) the motor vehicle is exempt from the insurance requirement because the person has established financial responsibility in a manner described by Sections [~~Section~~] 601.051(2)-(5) or is exempt under Section 601.052.

(f) A county assessor-collector is not liable to any person for refusing to register a motor vehicle to which this section applies because of the person's failure to submit evidence of financial responsibility that complies with Subsection (c).

(g) A county, a county assessor-collector, a deputy county assessor-collector, a person acting for or on behalf of a county or a county assessor-collector, or a person acting on behalf of an owner for purposes of registering a motor vehicle is not liable to any person for registering a motor vehicle under this section.

(h) This section does not prevent a person from registering

a motor vehicle by mail or through an electronic submission.

(i) To be valid under this section, an electronic submission must be in a format that is:

(1) submitted by electronic means, including a telephone, facsimile machine, or computer;

(2) approved by the department; and

(3) authorized by the commissioners court for use in the county.

(j) This section does not apply to a vehicle registered pursuant to Section 501.0234.

SECTION 40.083. Section 502.009, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, renumbered as Section 502.047, Transportation Code, and amended to read as follows:

Sec. 502.047 [~~502.009~~]. MOTOR VEHICLE EMISSIONS INSPECTION AND MAINTENANCE REQUIREMENTS. (a) The Department of Public Safety shall ensure compliance with the motor vehicle emissions inspection and maintenance program through a vehicle inspection sticker-based enforcement system except as provided by this section or Section 548.3011. Subsections (b)-(e) apply only if the United States Environmental Protection Agency determines that the state has not demonstrated, as required by 40 C.F.R. Section 51.361, that sticker-based enforcement of the program is more effective than registration-based enforcement and gives the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality or the governor written notification that the reregistration-based enforcement of the program, as described by

those subsections, will be required. If Subsections (b)-(e) are made applicable as provided by this subsection, the department shall terminate reregistration-based enforcement of the program under those subsections on the date the United States Environmental Protection Agency gives the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality or a person the commission designates written notification that reregistration-based enforcement is not required for the state implementation plan.

(b) A [~~The department may not register a~~] motor vehicle may not be registered if the department receives from the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality or the Department of Public Safety notification that the registered owner of the vehicle has not complied with Subchapter F, Chapter 548.

(c) A motor vehicle [~~The county tax assessor-collector~~] may not be registered if the [~~register a~~] vehicle was denied registration under Subsection (b) unless [~~the tax assessor-collector has~~] verification is received that the registered vehicle owner is in compliance with Subchapter F, Chapter 548.

(d) The department, the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality, and the Department of Public Safety shall enter an agreement regarding the responsibilities for costs associated with implementing this section.

(e) A county tax assessor-collector is not liable to any person for refusing to register a motor vehicle because of the

person's failure to provide verification of the person's compliance with Subchapter F, Chapter 548.

SECTION 40.084. Section 502.005, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, renumbered as Section 502.048, Transportation Code, and amended to read as follows:

Sec. 502.048 [~~502.005~~]. REFUSAL TO REGISTER UNSAFE VEHICLE. [~~(a)~~] The department may refuse to register a motor vehicle and may cancel, suspend, or revoke a registration if the department determines that a motor vehicle is unsafe, improperly equipped, or otherwise unfit to be operated on a public highway.

[~~(b) The department may refuse to register a motorcycle and may suspend or revoke the registration of a motorcycle if the department determines that the motorcycle's braking system does not comply with Section 547.408.~~]

SECTION 40.085. Section 502.055(b), Transportation Code, is amended to read as follows:

(b) The department may require an applicant for registration under this chapter to provide the department with evidence of:

(1) the manufacturer's rated carrying capacity for the vehicle; or

(2) [~~the nominal tonnage rating of the vehicle;~~

[~~(3)~~] the gross vehicle weight rating [~~of the vehicle;~~ ~~or~~

[~~(4) any combination of information described in Subdivisions (1)-(3)~~].

SECTION 40.086. Section 502.178, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, renumbered as Section 502.057, Transportation Code, and amended to read as follows:

Sec. 502.057 [~~502.178~~]. REGISTRATION RECEIPT. [~~(a)~~] The department shall issue or require to be issued to the owner of a vehicle registered under this chapter a registration receipt showing the information required by rule [~~:~~

[~~(1) the date of issuance;~~

[~~(2) the license number assigned to the vehicle;~~

[~~(3) the name and address of the owner; and~~

[~~(4) other information as determined by the department.~~

[~~(b) The registration receipt issued for a commercial motor vehicle, truck-tractor, trailer, or semitrailer must show the gross weight for which the vehicle is registered~~].

SECTION 40.087. Section 502.179, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, renumbered as Section 502.058, Transportation Code, and amended to read as follows:

Sec. 502.058 [~~502.179~~]. DUPLICATE REGISTRATION RECEIPT. (a) The owner of a vehicle for which the registration receipt has been lost or destroyed may obtain a duplicate receipt from the department or the county assessor-collector who issued the original receipt by paying a fee of $2.

(b) The office issuing a duplicate receipt shall retain the fee received [~~as a fee of office~~].

SECTION 40.088. Section 502.180, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, renumbered as Section 502.059, Transportation Code, and amended to read as follows:

Sec. 502.059 [~~502.180~~]. ISSUANCE OF [~~LICENSE PLATE OR~~] REGISTRATION INSIGNIA. (a) On payment of the prescribed fee [~~, the department shall issue to~~] an applicant for motor vehicle registration shall be issued a [~~license plate or set of plates or a device that, when attached to the vehicle as prescribed by the department, is the~~] registration insignia [~~for the period for which it was issued~~].

(b) [~~Subject to Subchapter I, the department shall issue only one license plate or set of plates for a vehicle during a five-year period.~~]

[~~(c)~~] On application and payment of the prescribed fee for a renewal of the registration of a vehicle through the seventh [~~for the first, second, third, or fourth~~] registration year after the issuance of a license plate or set of plates for the vehicle, the department shall issue a registration insignia for the validation of the license plate or plates to be attached as provided by Subsection (c) [~~(d)~~].

(c) [~~(d)~~] Except as provided by Subsection (f) [~~(h)~~], the registration insignia for validation of a license plate shall be attached to the inside of the vehicle's windshield, if the vehicle has a windshield, within six inches of the place where the motor vehicle inspection sticker is required to be placed. If the vehicle does not have a windshield, the owner, when applying for

registration or renewal of registration, shall notify the department, and the department shall issue a distinctive device for attachment to the rear license plate of the vehicle.

(d) Department [~~(e) The department shall adopt rules for the issuance and use of license plates and registration insignia issued under this chapter. The~~] rules may provide for the use of an automated registration process, including:

(1) the automated on-site production of registration insignia; and

(2) automated on-premises and off-premises self-service registration.

(e) Subsection (c) does [~~(f) Subsections (b)-(d) do~~] not apply to:

(1) the issuance of specialized license plates as designated by the department, including state official license plates, exempt plates for governmental entities, and temporary registration plates; or

(2) the issuance or validation of replacement license plates, except as provided by Chapter 504 [~~Section 502.184~~].

(f) [~~(g) The department shall provide a separate and distinctive tab to be affixed to the license plate of an automobile, pickup, or recreational vehicle that is offered for rent, as a business, to any part of the public.~~]

[~~(h)~~] The registration insignia [~~for validation of a license plate~~] shall be attached to the rear license plate of the vehicle, if the vehicle is:

(1) a motorcycle;

(2) machinery used exclusively to drill water wells or construction machinery for which a distinguishing license plate has been issued under Section 502.146 [~~504.504~~]; or

(3) oil well servicing, oil clean out, or oil well drilling machinery or equipment for which a distinguishing license plate has been issued under Subchapter G, Chapter 623.

SECTION 40.089. Section 502.184, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, renumbered as Section 502.060, Transportation Code, and amended to read as follows:

Sec. 502.060 [~~502.184~~]. REPLACEMENT OF [~~LOST, STOLEN, OR MUTILATED LICENSE PLATE OR~~] REGISTRATION INSIGNIA. (a) The owner of a registered motor vehicle may obtain from the department through the county assessor-collector [~~replacement license plates or~~] a replacement registration insignia by:

(1) certifying [~~filing with the assessor-collector a statement:~~

[~~(A) showing~~] that [~~one or both of the license plates or~~] the registration insignia to be replaced has been lost, stolen, or mutilated[~~;~~] and

[~~(B) stating~~] that the replacement [~~no license plate or~~] registration insignia [~~to be replaced~~] will not be used on any other vehicle owned or operated by the person making the statement;

(2) paying a fee of $5 plus the fees required by Sections 502.356(a) [~~502.170(a)~~] and 502.360 [~~502.1705(a)~~] for [~~each set of replacement license plates or~~] each replacement

registration insignia, unless specified in other law [~~except as provided by Subsection (b), (c), or (i)~~]; and

(3) returning [~~to~~] the [~~assessor-collector each replaced plate or~~] registration insignia in the owner's possession.

(b) A [~~No~~] fee is not required under this section if the replacement fee has been paid under Section 504.008. [~~for the replacement of lost, stolen, or mutilated specialized license plates issued under Sections 504.308 and 504.315(e) and (f). The fee for replacement of certain specialized license plates is:~~

[~~License plates issued under:~~ ~~Fee:~~

[~~Section 504.411~~ ~~$2~~

[~~Section 504.409~~ ~~$9~~]

(c) The fee for replacement of a registration insignia of all other specialized license plates issued under this chapter [~~Section 504.507~~] is the amount prescribed by the department as necessary to recover the cost of providing the replacement [~~plates~~].

(d) [~~If license plates approved under Section 504.501(b) or 504.502(c) are lost, stolen, or mutilated, the owner of the vehicle may obtain approval of another set of license plates as provided by Section 504.501 or 504.502, respectively. The fee for approval of replacement license plates is $5.~~

[~~(e)~~] A county assessor-collector may not issue [~~replacement license plates or a~~] replacement registration insignia without complying with this section.

(e) [~~(f)~~] A county assessor-collector shall retain $2.50 of each fee collected under this section and shall report and send the

remainder to the department [~~as provided by Sections 502.102 and 502.105~~].

[~~(g) Replacement license plates may be used in the registration year in which the plates are issued and during each succeeding year of the five-year period as prescribed by Section 502.180(b) if the registration insignia is properly attached.~~

[~~(h) Subsection (g) does not apply to the issuance of specialized license plates as designated by the department, including state official license plates, exempt plates for governmental entities, and temporary registration plates.~~

[~~(i) The owner of a vehicle listed in Section 502.180(h) may obtain replacement plates and a replacement registration insignia by paying a fee of $5 plus the fees required by Sections 502.170(a) and 502.1705(a).~~]

SECTION 40.090. The heading to Subchapter C, Chapter 502, Transportation Code, is amended to read as follows:

SUBCHAPTER C. SPECIAL REGISTRATIONS [~~COUNTY ADMINISTRATION~~]

SECTION 40.091. Section 502.0025, Transportation Code, is transferred to Subchapter C, Chapter 502, Transportation Code, and renumbered as Section 502.090, Transportation Code, to read as follows:

Sec. 502.090 [~~502.0025~~]. EFFECT OF CERTAIN MILITARY SERVICE ON REGISTRATION REQUIREMENT. (a) This section applies only to a motor vehicle that is owned by a person who:

(1) is a resident of this state;

(2) is on active duty in the armed forces of the United States;

(3) is stationed in or has been assigned to another nation under military orders; and

(4) has registered the vehicle or been issued a license for the vehicle under the applicable status of forces agreement by:

(A) the appropriate branch of the armed forces of the United States; or

(B) the nation in which the person is stationed or to which the person has been assigned.

(b) Unless the registration or license issued for a vehicle described by Subsection (a) is suspended, canceled, or revoked by this state as provided by law:

(1) Section 502.040(a) [~~502.002(a)~~] does not apply; and

(2) the registration or license issued by the armed forces or host nation remains valid and the motor vehicle may be operated in this state under that registration or license for a period of not more than 90 days after the date on which the vehicle returns to this state.

SECTION 40.092. Section 502.054, Transportation Code, is transferred to Subchapter C, Chapter 502, Transportation Code, renumbered as Section 502.091, Transportation Code, and amended to read as follows:

Sec. 502.091 [~~502.054~~]. INTERNATIONAL REGISTRATION PLAN [~~AGREEMENTS WITH OTHER JURISDICTIONS; OFFENSE~~]. (a) The department, through its director, may enter into an agreement with an authorized officer of another jurisdiction, including another

state of the United States, a foreign country or a state, province, territory, or possession of a foreign country, to provide for:

(1) the registration of vehicles by residents of this state and nonresidents on an allocation or mileage apportionment plan, as under the International Registration Plan; and

(2) the exemption from payment of registration fees by nonresidents if residents of this state are granted reciprocal exemptions.

(b) The department may adopt and enforce rules to carry out the International Registration Plan or other agreement under this section.

(c) To carry out the International Registration Plan or other agreement under this section, the department shall direct that fees collected for other jurisdictions under the agreement be deposited to the credit of the proportional registration distributive fund in the state treasury and distributed to the appropriate jurisdiction through that fund.

(d) This section prevails to the extent of conflict with another law relating to the subject of this section.

(e) A person commits an offense if the person owns or operates a vehicle not registered in this state in violation of:

(1) an agreement under this section; or

(2) the applicable registration laws of this state, in the absence of an agreement under this section.

(f) An offense under Subsection (e) is a misdemeanor punishable by a fine not to exceed $200.

SECTION 40.093. Section 502.355, Transportation Code, is

transferred to Subchapter C, Chapter 502, Transportation Code, renumbered as Section 502.092, Transportation Code, and amended to read as follows:

Sec. 502.092 [~~502.355~~]. NONRESIDENT-OWNED VEHICLES USED TO TRANSPORT FARM PRODUCTS [~~; OFFENSE~~]. (a) The department may issue to a nonresident owner a permit for a truck, truck-tractor, trailer, or semitrailer that:

(1) is registered in the owner's home state or country; and

(2) will be used to transport:

(A) farm products produced in this state from the place of production to a place of market or storage or a railhead that is not more than 75 miles from the place of production;

(B) machinery used to harvest farm products produced in this state; or

(C) farm products produced outside this state from the point of entry into this state to a place of market, storage, or processing or a railhead or seaport that is not more than 80 miles from the point of entry.

(b) The department shall issue a distinguishing insignia for a vehicle issued a permit under this section. The insignia must be attached to the vehicle in lieu of regular license plates and must show the permit expiration date. A permit issued under this section is valid until the earlier of:

(1) the date the vehicle's registration in the owner's home state or country expires; or

(2) the 30th day after the date the permit is issued.

(c) A person may obtain a permit under this section by:

(1) applying to the department as [~~on a form~~] prescribed by the department;

(2) paying a fee equal to 1/12 the registration fee prescribed by this chapter for the vehicle;

(3) furnishing satisfactory evidence that the motor vehicle is insured under an insurance policy that complies with Section 601.072 and that is written by:

(A) an insurance company or surety company authorized to write motor vehicle liability insurance in this state; or

(B) with the department's approval, a surplus lines insurer that meets the requirements of Chapter 981, Insurance Code, and rules adopted by the commissioner of insurance under that chapter, if the applicant is unable to obtain insurance from an insurer described by Paragraph (A); and

(4) furnishing evidence that the vehicle has been inspected as required under Chapter 548.

(d) A nonresident owner may not obtain more than three permits under this section during a registration year.

(e) A vehicle for which a permit is issued under this section may not be operated in this state after the permit expires unless the owner:

(1) obtains another temporary permit; or

(2) registers the vehicle under Section 502.253, 502.254, 502.256 [~~502.162, 502.165, 502.166~~], or 502.255 [~~502.167~~], as appropriate, for the remainder of the registration

year.

(f) A vehicle for which a permit is issued under this section may not be registered under Section 502.433 [~~502.163~~].

(g) A mileage referred to in this section is a state highway mileage.

[~~(h) A person operating a vehicle under a permit issued under this section commits an offense if the person:~~

[~~(1) transports farm products to a place of market, storage, or processing or a railhead or seaport that is farther from the place of production or point of entry, as appropriate, than the distance provided for in the permit; or~~

[~~(2) follows a route other than that prescribed by the Texas Transportation Commission.~~

[~~(i) An offense under Subsection (h) is a misdemeanor punishable by a fine of not less than $25 or more than $200.~~]

SECTION 40.094. Section 502.353, Transportation Code, is transferred to Subchapter C, Chapter 502, Transportation Code, renumbered as Section 502.093, Transportation Code, and amended to read as follows:

Sec. 502.093 [~~502.353~~]. [~~FOREIGN COMMERCIAL VEHICLES;~~] ANNUAL PERMITS [~~; OFFENSE~~]. (a) The department may issue an annual permit in lieu of registration to a foreign commercial motor vehicle, trailer, or semitrailer that [~~:~~

[~~(1)~~] is subject to registration in this state [~~;~~] and

[~~(2)~~] is not authorized to travel on a public highway because of the lack of registration in this state or the lack of reciprocity with the state or country in which the vehicle is

registered.

(b) A permit issued under this section [~~:~~

[~~(1) is in lieu of registration; and~~

[~~(2)~~] is valid for a vehicle registration year to begin on the first day of a calendar month designated by the department and end on the last day of the last calendar month of the registration year.

(c) A permit may not be issued under this section for the importation of citrus fruit into this state from a foreign country except for foreign export or processing for foreign export.

(d) A person may obtain a permit under this section by:

(1) applying in the manner prescribed by [~~to~~] the department;

(2) paying a registration fee in the amount required by Subsection (e) in the manner prescribed by the department, including a service charge for a credit card payment or escrow account [~~cash or by postal money order or certified check~~]; and

(3) furnishing evidence of financial responsibility for the motor vehicle that complies with Sections 502.046(c) [~~502.153(c)~~] and 601.168(a), the policies to be written by an insurance company or surety company authorized to write motor vehicle liability insurance in this state.

(e) The fee for a permit under this section is the fee that would be required for registering the vehicle under Section 502.253 [~~502.162~~] or 502.255 [~~502.167~~], except as provided by Subsection (f).

(f) A vehicle registered under this section is exempt from

the token fee and is not required to display the associated distinguishing license plate if the vehicle:

(1) is a semitrailer that has a gross weight of more than 6,000 pounds; and

(2) is used or intended to be used in combination with a truck tractor or commercial motor vehicle with a gross vehicle weight [~~manufacturer's rated carrying capacity~~] of more than 10,000 pounds [~~one ton~~].

(g) A vehicle registered under this section is not subject to the fee required by Section 502.401 [~~502.172~~] or 502.403 [~~502.173~~].

[~~(h) The department may:~~

[~~(1) adopt rules to administer this section; and~~

[~~(2) prescribe an application for a permit and other forms under this section.~~

[~~(i) A person who violates this section commits an offense. An offense under this section is a misdemeanor punishable by a fine not to exceed $200.~~]

SECTION 40.095. Section 502.352, Transportation Code, is transferred to Subchapter C, Chapter 502, Transportation Code, renumbered as Section 502.094, Transportation Code, and amended to read as follows:

Sec. 502.094 [~~502.352~~]. 72- OR 144-HOUR PERMITS [~~FOREIGN COMMERCIAL VEHICLES~~]. (a) The department may issue a temporary registration permit in lieu of registration for a commercial motor vehicle, trailer, semitrailer, or motor bus that:

(1) is owned by a resident of the United States,

Canada, or the United Mexican States;

(2) is subject to registration in this state; and

(3) is not authorized to travel on a public highway because of the lack of registration in this state or the lack of reciprocity with the state or province in which the vehicle is registered.

(b) A permit issued under this section [~~:~~

[~~(1) is in lieu of registration; and~~

[~~(2)~~] is valid for the period stated on the permit, effective from the date and time shown on the receipt issued as evidence of registration under this section.

(c) A person may obtain a permit under this section by:

(1) applying to the county assessor-collector, the department, or the department's wire service agent, if the department has a wire service agent;

(2) paying a fee of $25 for a 72-hour permit or $50 for a 144-hour permit in the manner prescribed by the department that may include a registration service charge for a credit card payment or escrow account [~~:~~

[~~(A) in cash;~~

[~~(B) by postal money order;~~

[~~(C) by certified check;~~

[~~(D) by wire transfer through the department's wire service agent, if any;~~

[~~(E) by an escrow account; or~~

[~~(F) where the service is provided, by a credit card issued by:~~

[~~(i) a financial institution chartered by a state or the United States; or~~

[~~(ii) a nationally recognized credit organization approved by the Texas Transportation Commission;~~

[~~(3) paying a discount or service charge for a credit card payment or escrow account, in addition to the fee~~]; and

(3) [~~(4)~~] furnishing to the county assessor-collector, the department, or the department's wire service agent, evidence of financial responsibility for the vehicle that complies with Sections 502.046(c) [~~502.153(c)~~] and 601.168(a) [~~and is written by an insurance company or surety company authorized to write motor vehicle liability insurance in this state~~].

(d) A county assessor-collector shall report and send a fee collected under this section in the manner provided by Section 502.198 [~~Sections 502.102 and 502.105~~]. Each week, a wire service agent shall send to the department a report of all permits issued by the agent during the previous week. The department by rule shall prescribe the format [~~form~~] and content of a report required by this subsection.

(e) [~~The department may:~~

[~~(1) adopt rules to administer this section; and~~

[~~(2) prescribe an application for a permit and other forms under this section.~~

[~~(f)~~] A vehicle issued a permit under this section is subject to Subchapters B and F, Chapter 548, unless the vehicle:

(1) is registered in another state of the United

States, in a province of Canada, or in a state of the United Mexican States; or

(2) is mobile drilling or servicing equipment used in the production of gas, crude petroleum, or oil, including a mobile crane or hoisting equipment, mobile lift equipment, forklift, or tug.

(f) [~~(g)~~] A commercial motor vehicle, trailer, semitrailer, or motor bus apprehended for violating a registration law of this state:

(1) may not be issued a permit under this section; and

(2) is immediately subject to registration in this state.

(g) [~~(h)~~] A person who operates a commercial motor vehicle, trailer, or semitrailer with an expired permit issued under this section is considered to be operating an unregistered vehicle subject to each penalty prescribed by law.

(h) [~~(i)~~] The department may establish one or more escrow accounts in the state highway fund for the prepayment of a 72-hour permit or a 144-hour permit. Any fee established by the department for the administration of this subsection shall be administered as required by an agreement entered into by the department.

(i) The department may refuse and may instruct a county assessor-collector to refuse to issue a temporary registration for any vehicle if, in the department's opinion, the vehicle or the owner of the vehicle has been involved in operations that constitute an abuse of the privilege granted by this section. A registration issued after notice of the involvement is received is

void.

SECTION 40.096. Section 502.354, Transportation Code, is transferred to Subchapter C, Chapter 502, Transportation Code, renumbered as Section 502.095, Transportation Code, and amended to read as follows:

Sec. 502.095 [~~502.354~~]. ONE-TRIP [~~SINGLE~~] OR 30-DAY TRIP PERMITS [~~; OFFENSE~~]. (a) The department may issue a temporary permit in lieu of registration for a vehicle [~~that:~~

[~~(1) is~~] subject to registration in this state that [~~; and~~

[~~(2)~~] is not authorized to travel on a public highway because of the lack of registration in this state or the lack of reciprocity with the state or country in which the vehicle is registered.

(b) A permit issued under this section [~~:~~

[~~(1) is in lieu of registration; and~~

[~~(2)~~] is valid for:

(1) [~~(A)~~] one trip, as provided by Subsection (c); or

(2) [~~(B)~~] 30 days, as provided by Subsection (d).

(c) A one-trip permit is valid for one trip between the points of origin and destination and those intermediate points specified in the application and registration receipt. Unless the vehicle is a bus operating under charter that is not covered by a reciprocity agreement with the state or country in which the bus is registered, a one-trip permit is for the transit of the vehicle only, and the vehicle may not be used for the transportation of any passenger or property. A one-trip permit may not be valid for

longer than 15 days from the effective date of registration.

(d) A 30-day permit may be issued only to a passenger vehicle, a private bus, a trailer or semitrailer with a gross weight of not more than 10,000 pounds, a light truck, or a light commercial vehicle with a gross vehicle weight [~~manufacturer's rated carrying capacity~~] of more than 10,000 pounds [~~one ton~~] that will operate unladen. A person may obtain multiple 30-day permits. The department may issue a single registration receipt to apply to all of the periods for which the vehicle is registered.

(e) A person may obtain a permit under this section by:

(1) applying as [~~on a form~~] provided by the department to:

(A) the county assessor-collector of the county in which the vehicle will first be operated on a public highway; or

(B) the department in Austin or at one of the department's vehicle title and registration regional offices;

(2) paying a fee, in the manner prescribed by the department including a registration service charge for a credit card payment or escrow account [~~cash or by postal money order or certified check,~~] of:

(A) $5 for a one-trip permit; or

(B) $25 for each 30-day period; and

(3) furnishing evidence of financial responsibility for the vehicle in a form listed under Section 502.046(c) [~~502.153(c)~~].

(f) A registration receipt [~~and temporary tag~~] shall be carried in the vehicle at all times during the period in which it is

valid [~~issued on forms provided by the department~~]. The temporary tag must contain all pertinent information required by this section and must be displayed in the rear window of the vehicle so that the tag is clearly visible and legible when viewed from the rear of the vehicle. If the vehicle does not have a rear window, the temporary tag must be attached on or carried in the vehicle to allow ready inspection. The registration receipt must be carried in the vehicle at all times during the period in which it is valid.

(g) The department may refuse and may instruct a county assessor-collector to refuse to issue a temporary registration for any vehicle if, in the department's opinion, the vehicle or the owner of the vehicle has been involved in operations that constitute an abuse of the privilege granted by this section. A registration issued after notice to a county assessor-collector under this subsection is void.

[~~(h) A person issued a temporary registration under this section who operates a vehicle in violation of Subsection (f) commits an offense. An offense under this subsection is a Class C misdemeanor.~~

[~~(i) The department may:~~

[~~(1) adopt rules to administer this section; and~~

[~~(2) prescribe an application for a permit and other forms under this section.~~]

SECTION 40.097. The heading to Subchapter D, Chapter 502, Transportation Code, is amended to read as follows:

SUBCHAPTER D. VEHICLES NOT ISSUED REGISTRATION [~~PROCEDURES AND FEES~~]

SECTION 40.098. Section 502.006, Transportation Code, is transferred to Subchapter D, Chapter 502, Transportation Code, renumbered as Section 502.140, Transportation Code, and amended to read as follows:

Sec. 502.140 [~~502.006~~]. ALL-TERRAIN VEHICLES. (a) Except as provided by Subsection (b), a person may not register an all-terrain vehicle, with or without design alterations, for operation on a public highway.

(b) The state, a county, or a municipality may register an all-terrain vehicle for operation on a public beach or highway to maintain public safety and welfare.

(c) [~~(c)~~] Section 502.401 [~~502.172~~] does not apply to an all-terrain vehicle.

(d) Operation in compliance with Section 663.037 does not require registration.

SECTION 40.099. Section 502.0071, Transportation Code, is transferred to Subchapter D, Chapter 502, Transportation Code, renumbered as Section 502.141, Transportation Code, and amended to read as follows:

Sec. 502.141 [~~502.0071~~]. GOLF CARTS. A [~~An owner of a~~] golf cart may be operated on a public highway without registration [~~is not required to register the golf cart~~] if:

(1) the operation of the golf cart occurs in the daytime, as defined by Section 541.401; and

(2) the operation:

(A) does not exceed a distance of two miles from the point of origin to the destination if driven to and from a golf

course;

(B) occurs entirely within a master planned community with a uniform set of restrictive covenants that has had a plat approved by a county or a municipality; or

(C) occurs on a public or private beach.

SECTION 40.100. Section 502.0072, Transportation Code, is transferred to Subchapter D, Chapter 502, Transportation Code, and renumbered as Section 502.142, Transportation Code, to read as follows:

Sec. 502.142 [~~502.0072~~]. MANUFACTURED HOUSING. Manufactured housing, as defined by Section 1201.003, Occupations Code, is not a vehicle subject to this chapter.

SECTION 40.101. Section 502.0073, Transportation Code, is transferred to Subchapter D, Chapter 502, Transportation Code, renumbered as Section 502.143, Transportation Code, and amended to read as follows:

Sec. 502.143 [~~502.0073~~]. OTHER VEHICLES [~~POWER SWEEPERS~~]. [~~(a)~~] An owner [~~of a power sweeper~~] is not required to register the following vehicles for operation on a public highway:

(1) power sweepers;

(2) motorized mobility devices;

(3) electric personal assistive mobility devices; and

(4) electric bicycles [~~sweeper~~].

[~~(b) In this section, "power sweeper" means an implement, with or without motive power, designed for the removal by broom, vacuum, or regenerative air system of debris, dirt, gravel, litter, or sand from asphaltic concrete or cement concrete surfaces,~~

~~including surfaces of parking lots, roads, streets, highways, and warehouse floors. The term includes a vehicle on which the implement is permanently mounted if the vehicle is used only as a power sweeper.~~]

SECTION 40.102. Section 502.0078, Transportation Code, is transferred to Subchapter D, Chapter 502, Transportation Code, and renumbered as Section 502.144, Transportation Code, to read as follows:

Sec. 502.144 [~~502.0078~~]. VEHICLES OPERATED ON PUBLIC HIGHWAY SEPARATING REAL PROPERTY UNDER VEHICLE OWNER'S CONTROL. Where a public highway separates real property under the control of the owner of a motor vehicle, the operation of the motor vehicle by the owner or the owner's agent or employee across the highway is not a use of the motor vehicle on the public highway.

SECTION 40.103. Section 502.0079, Transportation Code, is transferred to Subchapter D, Chapter 502, Transportation Code, renumbered as Section 502.145, Transportation Code, and amended to read as follows:

Sec. 502.145 [~~502.0079~~]. VEHICLES OPERATED BY CERTAIN NONRESIDENTS. (a) [~~A nonresident owner of a motor vehicle, trailer, or semitrailer that is registered in the state or country in which the person resides may operate the vehicle to transport persons or property for compensation without being registered in this state, if the person does not exceed two trips in a calendar month and each trip does not exceed four days.~~

[~~(b) A nonresident owner of a privately owned vehicle that is not registered in this state may not make more than five~~

~~occasional trips in any calendar month into this state using the vehicle. Each occasional trip into this state may not exceed five days.~~

[~~(c)~~] A nonresident owner of a privately owned passenger car that is registered in the state or country in which the person resides and that is not operated for compensation may operate the car in this state for the period in which the car's license plates are valid. In this subsection, "nonresident" means a resident of a state or country other than this state whose presence in this state is as a visitor and who does not engage in gainful employment or enter into business or an occupation, except as may otherwise be provided by any reciprocal agreement with another state or country.

(b) [~~(d)~~] This section does not prevent:

(1) a nonresident owner of a motor vehicle from operating the vehicle in this state for the sole purpose of marketing farm products raised exclusively by the person; or

(2) a resident of an adjoining state or country from operating in this state a privately owned and registered vehicle to go to and from the person's place of regular employment and to make trips to purchase merchandise, if the vehicle is not operated for compensation.

(c) [~~(e)~~] The privileges provided by this section may be allowed only if, under the laws of the appropriate state or country, similar privileges are granted to vehicles registered under the laws of this state and owned by residents of this state.

(d) [~~(f)~~] This section does not affect the right or status of a vehicle owner under any reciprocal agreement between this

state and another state or country.

SECTION 40.104. Section 504.504, Transportation Code, is transferred to Subchapter D, Chapter 502, Transportation Code, renumbered as Section 502.146, Transportation Code, and amended to read as follows:

Sec. 502.146 [~~504.504~~]. CERTAIN FARM VEHICLES AND DRILLING AND CONSTRUCTION EQUIPMENT. (a) The department shall issue specialty license plates to a vehicle described by Subsection (b) or (c). The fee for the license plates is $5.

(b) An owner is not required to register a vehicle that is used only temporarily on the highways if the vehicle is:

(1) a farm trailer or farm semitrailer with a gross weight of more than 4,000 pounds but not more than 34,000 pounds that is used exclusively to transport:

(A) seasonally harvested agricultural products or livestock from the place of production to the place of processing, market, or storage; or

(B) farm supplies from the place of loading to the farm;

(2) machinery used exclusively for the purpose of drilling water wells; [~~or~~]

(3) oil well servicing or drilling machinery; or

(4) construction machinery [~~that is not designed to transport persons or property on a public highway~~].

(c) An owner is not required to register a vehicle that is:

(1) a farm trailer or farm semitrailer owned by a cotton gin and used exclusively to transport agricultural products

without charge from the place of production to the place of processing, market, or storage;

(2) a trailer used exclusively to transport fertilizer without charge from a place of supply or storage to a farm; or

(3) a trailer used exclusively to transport cottonseed without charge from a place of supply or storage to a farm or place of processing.

(d) A vehicle described by Subsection (b) is exempt from the inspection requirements of Subchapters B and F, Chapter 548.

(e) This section does not apply to a farm trailer or farm semitrailer that:

(1) is used for hire;

(2) has metal tires operating in contact with the highway;

(3) is not equipped with an adequate hitch pinned or locked so that it will remain securely engaged to the towing vehicle while in motion; or

(4) is not operated and equipped in compliance with all other law.

(f) A vehicle to which this section applies that is operated on a public highway in violation of this section is considered to be operated while unregistered and is immediately subject to the applicable registration fees and penalties prescribed by this chapter [~~Chapter 502~~].

(g) In this section, the gross weight of a trailer or semitrailer is the combined weight of the vehicle and the load carried on the highway.

SECTION 40.105. The heading to Subchapter E, Chapter 502, Transportation Code, is amended to read as follows:

SUBCHAPTER E. ADMINISTRATION OF FEES [~~SPECIALLY DESIGNATED LICENSE PLATES; EXEMPTIONS FOR GOVERNMENTAL AND QUASI-GOVERNMENTAL VEHICLES~~]

SECTION 40.106. Section 502.159, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, renumbered as Section 502.190, Transportation Code, and amended to read as follows:

Sec. 502.190 [~~502.159~~]. SCHEDULE OF REGISTRATION FEES. The department shall post [~~compile and furnish to each county assessor-collector~~] a complete schedule of registration fees on the Internet [~~to be collected on the various makes, models, and types of vehicles~~].

SECTION 40.107. Section 502.004, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, renumbered as Section 502.191, Transportation Code, and amended to read as follows:

Sec. 502.191 [~~502.004~~]. COLLECTION OF FEES. (a) A person may not collect a registration fee under this chapter unless the person is:

(1) an officer or employee of the department; or

(2) a county assessor-collector or a deputy county assessor-collector.

(b) The department may accept electronic payment by electronic funds transfer, credit card, or debit card of any fee that the department is authorized to collect under this chapter.

(c) The department may collect a fee for processing a payment by electronic funds transfer, credit card, or debit card. The amount of the fee must be reasonably related to the expense incurred by the department in processing the payment by electronic funds transfer, credit card, or debit card and may not be more than five percent of the amount of the registration fee being paid.

(d) In addition to the fee authorized by Subsection (c), the department may collect from a person making payment by electronic funds transfer, credit card, or debit card an amount equal to the amount of any registration transaction fee charged to the department by a vendor providing services in connection with payments made by electronic funds transfer, credit card, or debit card. The limitation prescribed by Subsection (c) on the amount of a fee does not apply to a fee collected under this subsection.

(e) If, for any reason, the payment of a fee under this chapter by electronic funds transfer, credit card, or debit card is not honored by the funding institution or by the electronic funds transfer, credit card, or debit card company on which the funds are drawn, the department may collect from the person who owes the fee being collected a service charge that is for the collection of that original amount and is in addition to the original fee. The amount of the service charge must be reasonably related to the expense incurred by the department in collecting the original amount.

SECTION 40.108. Subchapter E, Chapter 502, Transportation Code, is amended by adding Section 502.192 to read as follows:

Sec. 502.192. TRANSFER FEE. The purchaser of a used motor vehicle shall pay, in addition to any fee required under Chapter 501

for the transfer of title, a transfer fee of $2.50 for the transfer of the registration of the motor vehicle. The county assessor-collector may retain as commission for services provided under this subchapter half of each transfer fee collected.

SECTION 40.109. Section 502.181, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, renumbered as Section 502.193, Transportation Code, and amended to read as follows:

Sec. 502.193 [~~502.181~~]. PAYMENT [~~OF REGISTRATION FEE~~] BY CHECK DRAWN AGAINST INSUFFICIENT FUNDS. (a) A county assessor-collector who receives from any person a check or draft for [~~drawn on a bank or trust company in~~] payment of a registration fee for a registration year that has not ended [~~on a motor vehicle, trailer, or motorcycle sidecar~~] that is returned unpaid because of insufficient funds or no funds in the bank or trust company to the credit of the drawer of the check or draft shall immediately certify the fact to the sheriff or a constable or highway patrol officer in the county. The certification must:

(1) be under the assessor-collector's official seal;

(2) include the name and address of the person who gave [~~the assessor-collector~~] the check or draft;

(3) include the license plate number and make of the vehicle; and

(4) be accompanied by the check or draft.

(b) On receiving a complaint under Subsection (a) from the county assessor-collector, the sheriff, constable, or highway patrol officer shall find the person who gave [~~the~~

~~assessor-collector~~] the check or draft, if the person is in the county, and demand immediate redemption of the check or draft from the person. If the person fails or refuses to redeem the check or draft, the sheriff, constable, or highway patrol officer shall:

(1) seize and remove the license plates and registration insignia from the vehicle; and

(2) return the license plates and registration insignia to the county assessor-collector.

SECTION 40.110. Section 502.182, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, renumbered as Section 502.194, Transportation Code, and amended to read as follows:

Sec. 502.194 [~~502.182~~]. CREDIT FOR REGISTRATION FEE PAID ON MOTOR VEHICLE SUBSEQUENTLY DESTROYED. (a) The owner of a motor vehicle that is destroyed to the extent that it cannot afterwards be operated on a public highway is entitled to a registration fee credit if the prorated portion of the registration fee for the remainder of the registration year is more than $15. The owner must claim the credit by [~~:~~

[~~(1)~~] sending the registration fee receipt [~~and the license plates~~] for the vehicle to the department [~~; and~~

[~~(2) executing a statement on a form provided by the department showing that the license plates have been surrendered to the department~~].

(b) The department, on satisfactory proof that the vehicle is destroyed, shall issue a registration fee credit slip to the owner in an amount equal to the prorated portion of the registration

fee for the remainder of the registration year. The owner, during the same or the next registration year, may use the registration fee credit slip as payment or part payment for the registration of another vehicle to the extent of the credit.

[~~(c) A statement executed under Subsection (a)(2) shall be delivered to a purchaser of the destroyed vehicle. The purchaser may surrender the statement to the department in lieu of the vehicle license plates.~~

[~~(d) The department shall adopt rules to administer this section.~~]

SECTION 40.111. Section 502.183, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, renumbered as Section 502.195, Transportation Code, and amended to read as follows:

Sec. 502.195 [~~502.183~~]. REFUND OF OVERCHARGED REGISTRATION FEE. (a) The owner of a motor vehicle [~~that is required to be registered~~] who pays an annual registration fee in excess of the statutory amount is entitled to a refund of the overcharge.

(b) The county assessor-collector who collects the excessive fee shall refund an overcharge on presentation to the assessor-collector of satisfactory evidence of the overcharge[~~. The owner must make a claim for a refund of an overcharge~~] not later than the first [~~fifth~~] anniversary of the date the excessive registration fee was paid.

(c) A refund shall be paid from the fund in which the county's share of registration fees is deposited.

SECTION 40.112. Section 502.051, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, and renumbered as Section 502.196, Transportation Code, to read as follows:

Sec. 502.196 [~~502.051~~]. DEPOSIT OF REGISTRATION FEES IN STATE HIGHWAY FUND. Except as otherwise provided by this chapter, the Texas Transportation Commission and the department shall deposit all money received from registration fees in the state treasury to the credit of the state highway fund.

SECTION 40.113. Section 502.101, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, and renumbered as Section 502.197, Transportation Code, to read as follows:

Sec. 502.197 [~~502.101~~]. REGISTRATION BY MAIL OR ELECTRONIC MEANS; SERVICE CHARGE. (a) A county assessor-collector may collect a service charge of $1 from each applicant registering a vehicle by mail. The service charge shall be used to pay the costs of handling and postage to mail the registration receipt and insignia to the applicant.

(b) With the approval of the commissioners court of a county, a county assessor-collector may contract with a private entity to enable an applicant for registration to use an electronic off-premises location. A private entity may charge an applicant not more than $1 for the service provided.

(c) The department may adopt rules to cover the timely application for and issuance of registration receipts and insignia by mail or through an electronic off-premises location.

SECTION 40.114. Section 502.102, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, renumbered as Section 502.198, Transportation Code, and amended to read as follows:

Sec. 502.198 [~~502.102~~]. DISPOSITION OF FEES GENERALLY. (a) Except as provided by Section 502.1982 [~~Sections 502.103 and 502.104~~], this section applies to all fees collected by a county assessor-collector under this chapter.

(b) Each Monday, a county assessor-collector shall credit to the county road and bridge fund an amount equal to the net collections made during the preceding week until the amount so credited for the calendar year equals the total of:

(1) $60,000;

(2) $350 for each mile of county road maintained by the county, according to the most recent information available from the department, not to exceed 500 miles; and

(3) an additional amount of fees equal to the amount calculated under Section 502.1981 [~~502.1025~~].

(c) After the credits to the county road and bridge fund equal the total computed under Subsection (b), each Monday the county assessor-collector shall:

(1) credit to the county road and bridge fund an amount equal to 50 percent of the net collections made during the preceding week, until the amount so credited for the calendar year equals $125,000; and

(2) send to the department an amount equal to 50 percent of those collections.

(d) After the credits to the county road and bridge fund equal the total amounts computed under Subsections (b) and (c)(1), each Monday the county assessor-collector shall send to the department all collections made during the preceding week.

[~~(e) Each Monday the county assessor-collector shall send to the department a copy of each receipt issued the previous week for a registration fee under this chapter.~~]

SECTION 40.115. Section 502.1025, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, renumbered as Section 502.1981, Transportation Code, and amended to read as follows:

Sec. 502.1981 [~~502.1025~~]. CALCULATION OF ADDITIONAL FEE AMOUNTS RETAINED BY A COUNTY. (a) The county tax assessor-collector each calendar year shall calculate five percent of the tax and penalties collected by the county tax assessor-collector under Chapter 152, Tax Code, in the preceding calendar year. In addition, the county tax assessor-collector shall calculate each calendar year an amount equal to five percent of the tax and penalties that the comptroller:

(1) collected under Section 152.047, Tax Code, in the preceding calendar year; and

(2) determines are attributable to sales in the county.

(b) A county tax assessor-collector shall retain under Section 502.198(b) [~~502.102(b)~~] fees based on the following percentage of the amounts calculated under Subsection [~~subsection~~] (a) during each of the following fiscal years:

(1) [~~in fiscal year 2006, 90 percent;~~

[~~(2) in fiscal year 2007, 80 percent;~~

[~~(3) in fiscal year 2008, 70 percent;~~

[~~(4) in fiscal year 2009, 60 percent;~~

[~~(5) in fiscal year 2010, 50 percent;~~

[~~(6) in fiscal year 2011, 40 percent;~~

[~~(7) in fiscal year 2012, 30 percent;~~

[~~(8)~~] in fiscal year 2013, 20 percent;

(2) [~~(9)~~] in fiscal year 2014, 10 percent;

(3) [~~(10)~~] in fiscal year 2015 and succeeding years, 0 percent.

(c) The county shall credit the amounts retained under Subsection (b) to the county road and bridge fund. Money credited to the fund under this section may only be used for:

(1) county road construction, maintenance, and repair;

(2) bridge construction, maintenance, and repair;

(3) the purchase of right-of-way for road or highway purposes; or

(4) the relocation of utilities for road or highway purposes.

SECTION 40.116. Section 502.103, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, renumbered as Section 502.1982, Transportation Code, and amended to read as follows:

Sec. 502.1982 [~~502.103~~]. DISPOSITION OF OPTIONAL COUNTY ROAD AND BRIDGE FEE. Each Monday a county assessor-collector shall

apportion the collections for the preceding week for a fee imposed under Section 502.401 [~~502.172~~] by:

(1) crediting an amount equal to 97 percent of the collections to the county road and bridge fund; and

(2) sending to the department an amount equal to three percent of the collections to defray the department's costs of administering Section 502.401 [~~502.172~~].

SECTION 40.117. Section 502.106, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, renumbered as Section 502.1983, Transportation Code, and amended to read as follows:

Sec. 502.1983 [~~502.106~~]. DEPOSIT OF FEES IN INTEREST-BEARING ACCOUNT. (a) Except as provided by Section 502.1982 [~~Sections 502.103 and 502.104~~], a county assessor-collector may:

(1) deposit the fees in an interest-bearing account or certificate in the county depository; and

(2) send the fees to the department not later than the 34th day after the date the fees are due [~~under Section 502.104~~].

(b) The county owns all interest earned on fees deposited under this section. The county treasurer shall credit the interest to the county general fund.

SECTION 40.118. Section 502.107, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, and renumbered as Section 502.1984, Transportation Code, to read as follows:

Sec. 502.1984 [~~502.107~~]. INTEREST ON FEES. (a) A fee

required to be sent to the department under this chapter bears interest for the benefit of the state highway fund at an annual rate of 10 percent beginning on the 60th day after the date the county assessor-collector collects the fee.

(b) The department shall audit the registration and transfer fees collected and disbursed by each county assessor-collector and shall determine the exact amount of interest due on any fee not sent to the department.

(c) The state has a claim against a county assessor-collector and the sureties on the assessor-collector's official bond for the amount of interest due on a fee.

SECTION 40.119. Section 502.108, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, renumbered as Section 502.1985, Transportation Code, and amended to read as follows:

Sec. 502.1985 [~~502.108~~]. USE OF REGISTRATION FEES RETAINED BY COUNTY. (a) Money credited to the county road and bridge fund under Section 502.198 [~~502.102~~] or 502.1982 [~~502.103~~] may not be used to pay the compensation of the county judge or a county commissioner. The money may be used only for the construction and maintenance of lateral roads in the county, under the supervision of the county engineer.

(b) If there is not a county engineer, the commissioners court of the county may require the services of the department's district engineer or resident engineer to supervise the construction and surveying of lateral roads in the county.

(c) A county may use money allocated to it under this

chapter to:

(1) pay obligations issued in the construction or improvement of any roads, including state highways in the county;

(2) improve the roads in the county road system; or

(3) construct new roads.

(d) To the maximum extent possible, contracts for roads constructed by a county using funds provided under this chapter should be awarded by competitive bids.

SECTION 40.120. Section 502.110, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, and renumbered as Section 502.1986, Transportation Code, to read as follows:

Sec. 502.1986 [~~502.110~~]. CONTINGENT PROVISION FOR DISTRIBUTION OF FEES BETWEEN STATE AND COUNTIES. If the method of distributing vehicle registration fees collected under this chapter between the state and counties is declared invalid because of inequality of collection or distribution of those fees, 60 percent of each fee shall be distributed to the county collecting the fee and 40 percent shall be sent to the state in the manner provided by this chapter.

SECTION 40.121. The heading to Subchapter F, Chapter 502, Transportation Code, is amended to read as follows:

SUBCHAPTER F. REGULAR REGISTRATION FEES [~~SPECIALIZED LICENSE PLATES; EXEMPTIONS FOR PRIVATELY OWNED VEHICLES~~]

SECTION 40.122. Section 502.160, Transportation Code, is transferred to Subchapter F, Chapter 502, Transportation Code, renumbered as Section 502.251, Transportation Code, and amended to

read as follows:

Sec. 502.251 [~~502.160~~]. FEE: MOTORCYCLE OR MOPED. The fee for a registration year for registration of a motorcycle or moped is $30.

SECTION 40.123. Section 502.161, Transportation Code, is transferred to Subchapter F, Chapter 502, Transportation Code, renumbered as Section 502.252, Transportation Code, and amended to read as follows:

Sec. 502.252 [~~502.161~~]. FEE: PASSENGER CAR, MUNICIPAL BUS, PRIVATE BUS, PRIVATELY OWNED FORMER MILITARY VEHICLE OR FIRE TRUCK. (a) The fee for a registration year for registration of a passenger car, a municipal bus, or a private bus that weighs 6,000 pounds or less is:

(1) $40.50 for a vehicle the model year of which is more than six years before the year in which the registration year begins;

(2) $50.50 for a vehicle the model year of which is more than three years but is six years or less before the year in which the registration year begins; or

(3) $58.50 for a vehicle the model year of which is three years or less before the year in which the registration year begins.

(b) The fee for a registration year for registration of a passenger car, a municipal bus, or a private bus that weighs more than 6,000 pounds is $25 plus 60 cents for each 100 pounds.

(c) For registration purposes, the weight of a passenger car, a municipal bus, or a private bus is the weight generally

accepted as its correct shipping weight plus 100 pounds.

(d) The fee for a registration year for registration of a privately owned former military vehicle or fire truck, including the plate, is $15, unless eligible for the fee in accordance with Section 504.502.

(1) In this section:

(A) "Fire truck" means a vehicle originally designed to assist in fighting fires, by transporting firefighters to the scene, and providing them with access to the fire, water, or other equipment.

(B) "Former military vehicle" has the meaning assigned by Section 504.502.

(C) "Privately owned" means being owned by a person other than a governmental entity. [~~In this section, "private bus" has the meaning assigned by Section 502.294.~~]

SECTION 40.124. Section 502.162, Transportation Code, is transferred to Subchapter F, Chapter 502, Transportation Code, renumbered as Section 502.253, Transportation Code, and amended to read as follows:

Sec. 502.253 [~~502.162~~]. FEE: COMMERCIAL MOTOR VEHICLE OR TRUCK-TRACTOR. [~~(a)~~] The fee for a registration year for registration of a commercial motor vehicle or truck-tractor is $25 plus an amount determined according to the vehicle's gross weight and tire equipment, as follows:

Gross weight in pounds	Fee for each 100 pounds or fraction of 100 pounds	
	Equipped with pneumatic tires	Equipped with solid tires

1-6,000	$0.44	$0.55
6,001-8,000	0.495	0.66
8,001-10,000	0.605	0.77
10,001-17,000	0.715	0.88
17,001-24,000	0.77	0.99
24,001-31,000	0.88	1.10
31,001 and over	0.99	1.32

[~~(b) The gross weight of a vehicle is the actual weight of the vehicle, fully equipped with a body and other equipment, as certified by a public weigher or a license and weight inspector of the Department of Public Safety, plus its net carrying capacity.~~

[~~(c) The net carrying capacity of a vehicle other than a bus is the heaviest net load to be carried on the vehicle, but not less than the manufacturer's rated carrying capacity.~~

[~~(d) The net carrying capacity of a bus is computed by multiplying its seating capacity by 150 pounds. The seating capacity of a bus is:~~

[~~(1) the manufacturer's rated seating capacity, excluding the operator's seat; or~~

[~~(2) if the manufacturer has not rated the vehicle for seating capacity, a number computed by allowing one passenger for each 16 inches of seating on the bus, excluding the operator's seat.~~]

SECTION 40.125. Section 502.166, Transportation Code, is transferred to Subchapter F, Chapter 502, Transportation Code, renumbered as Section 502.254, Transportation Code, and amended to read as follows:

Sec. 502.254 [~~502.166~~]. FEE: TRAILER OR SEMITRAILER. [~~(a)~~] The fee for a registration year for registration of a trailer or semitrailer is $25 plus an amount determined according to the vehicle's gross weight and tire equipment, as follows:

Gross weight in pounds	Fee for each 100 pounds or fraction of 100 pounds	
	Equipped with pneumatic tires	Equipped with solid tires
1-6,000	$0.33	$0.44
6,001-8,000	0.44	0.55
8,001-10,000	0.55	0.66
10,001-17,000	0.66	0.88
17,001 and over	0.715	0.99

[~~(b) The gross weight of a trailer or semitrailer is the actual weight of the vehicle, as certified by a public weigher or a license and weight inspector of the Department of Public Safety, plus its net carrying capacity.~~

[~~(c) The net carrying capacity of a vehicle is the heaviest net load to be carried on the vehicle, but not less than the manufacturer's rated carrying capacity.~~

[~~(d) The department may issue specially designed license plates for rental trailers and travel trailers that include, as appropriate, the words "rental trailer" or "travel trailer."~~

[~~(e) In this section:~~

[~~(1) "Rental fleet" means five or more vehicles that are:~~

[~~(A) owned by the same owner;~~

[~~(B) offered for rent or rented without drivers; and~~

[~~(C) designated by the owner in the manner prescribed by the department as a rental fleet.~~

[~~(2) "Rental trailer" means a utility trailer that:~~

[~~(A) has a gross weight of 4,000 pounds or less; and~~

[~~(B) is part of a rental fleet.~~

[~~(3) "Travel trailer" means a house trailer-type vehicle or a camper trailer that is:~~

[~~(A) less than eight feet in width or 40 feet in length, exclusive of any hitch installed on the vehicle; and~~

[~~(B) designed primarily for use as temporary living quarters in connection with recreational, camping, travel, or seasonal use and not as a permanent dwelling; provided that "travel trailer" shall not include a utility trailer, enclosed trailer, or other trailer not having human habitation as its primary purpose.~~]

SECTION 40.126. Section 502.167, Transportation Code, is transferred to Subchapter F, Chapter 502, Transportation Code, renumbered as Section 502.255, Transportation Code, and amended to read as follows:

Sec. 502.255 [~~502.167~~]. TRUCK-TRACTOR OR COMMERCIAL MOTOR VEHICLE COMBINATION FEE; SEMITRAILER TOKEN FEE. (a) This section applies only to a truck-tractor or commercial motor vehicle with a gross vehicle weight [~~manufacturer's rated carrying capacity~~] of more than 18,000 pounds [~~one ton~~] that is used or is to be used in combination with a semitrailer that has a gross weight of more than 6,000 pounds.

(b) Notwithstanding Section 502.253 [~~502.162~~], the fee for a registration year for registration of a truck-tractor or commercial motor vehicle is $40 plus an amount determined according to the combined gross weight of the vehicles, as follows:

Combined gross weight in pounds	Fee for each 100 pounds or fraction of 100 pounds
18,000-36,000	$0.60
36,001-42,000	0.75
42,001-62,000	0.90
62,001 and over	1.00

(c) Notwithstanding Section 502.254 [~~502.166~~], the fee for a registration year for registration of a semitrailer used in the manner described by Subsection (a), regardless of the date the semitrailer is registered, is:

(1) $30, for a semitrailer being propelled by a power unit for which a permit under Section 623.011 has been issued; or

(2) $15, for a semitrailer being propelled by a power unit for which a permit under Section 623.011 has not been issued.

(d) A registration made under Subsection (c) is valid only when the semitrailer is used in the manner described by Subsection (a).

(e) For registration purposes, a semitrailer converted to a trailer by means of an auxiliary axle assembly retains its status as a semitrailer.

(f) A combination of vehicles may not be registered under this section for a combined gross weight of less than 18,000 pounds.

(g) This section does not apply to:

(1) a combination of vehicles that includes a vehicle that has a distinguishing license plate under Section 502.146 [~~504.504~~];

(2) a truck-tractor or commercial motor vehicle registered or to be registered with $5 distinguishing license plates for which the vehicle is eligible under this chapter;

(3) a truck-tractor or commercial motor vehicle used exclusively in combination with a semitrailer of the travel trailer [~~housetrailer~~] type; or

(4) a vehicle registered or to be registered:

(A) with a temporary registration permit;

(B) under Section 502.433 [~~502.163~~]; or

(C) under Section 502.435 [~~502.188~~].

(h) The department may adopt rules to administer this section.

(i) The department may issue specially designed license plates for token trailers.

(j) A person may register a semitrailer under this section for a registration period of five consecutive years if the person:

(1) applies to the department for the five-year registration;

(2) provides proof of the person's eligibility to register the vehicle under this subsection as required by the department; and

(3) pays a fee of $15, plus any applicable fee under Section 502.401 [~~502.172~~], for each year included in the registration period.

(k) If during the five-year registration period for a vehicle registered under Subsection (j) the amount of a fee imposed under that subsection is increased, the owner of the vehicle is liable to the department for the amount of the increase. If the amount of a fee is decreased, the owner of the vehicle is not entitled to a refund.

[~~(l) In this section:~~

[~~(1) "Combined gross weight" means the empty weight of the truck-tractor or commercial motor vehicle combined with the empty weight of the heaviest semitrailer used or to be used in combination with the truck-tractor or commercial motor vehicle plus the heaviest net load to be carried on the combination during the registration year.~~

[~~(2) "Empty weight" means the unladen weight of the truck-tractor or commercial motor vehicle and semitrailer combination fully equipped, as certified by a public weigher or license and weight inspector of the Department of Public Safety.~~

[~~(3) "Token trailer" means a semitrailer that:~~

[~~(A) has a gross weight of more than 6,000 pounds; and~~

[~~(B) is operated in combination with a truck or a truck-tractor that has been issued:~~

[~~(i) an apportioned license plate;~~

[~~(ii) a combination license plate; or~~

[~~(iii) a forestry vehicle license plate.~~

[~~(4) "Apportioned license plate" means a license plate issued in lieu of truck license plates or combination license~~

~~plates to a motor carrier in this state who proportionally registers a vehicle owned by the carrier in one or more other states.~~

[~~(5) "Combination license plate" means a license plate issued for a truck or truck-tractor that:~~

[~~(A) has a manufacturer's rated carrying capacity of more than one ton; and~~

[~~(B) is used or intended to be used in combination with a semitrailer that has a gross weight of more than 6,000 pounds.~~]

SECTION 40.127. Section 502.165, Transportation Code, is transferred to Subchapter F, Chapter 502, Transportation Code, and renumbered as Section 502.256, Transportation Code, to read as follows:

Sec. 502.256 [~~502.165~~]. FEE: ROAD TRACTOR. The fee for a registration year for registration of a road tractor is $25 plus an amount determined according to the vehicle's weight as certified by a public weigher or a license and weight inspector of the Department of Public Safety, as follows:

Gross weight in pounds	Fee for each 100 pounds or fraction of 100 pounds
1-4,000	$0.275
4,001-6,000	0.55
6,001-8,000	0.66
8,001-10,000	0.825
10,001 and over	1.10

SECTION 40.128. The heading to Subchapter G, Chapter 502, Transportation Code, is amended to read as follows:

SUBCHAPTER G. ADDITIONAL FEES [~~TEMPORARY REGISTRATION~~]

SECTION 40.129. Section 502.1705, Transportation Code, is transferred to Subchapter G, Chapter 502, Transportation Code, renumbered as Section 502.356, Transportation Code, and amended to read as follows:

Sec. 502.356 [~~502.1705~~]. [~~ADDITIONAL FEE FOR~~] AUTOMATED REGISTRATION AND TITLING [~~TITLE~~] SYSTEM. (a) In addition to other registration fees for a license plate or set of license plates or other device used as the registration insignia, a fee of $1 shall be collected.

(b) The department may use money collected under this section to enhance and provide [~~perform one or more of the following:~~

[~~(1) enhancing the department's automated registration and title system;~~

[~~(2) providing for the automated on-site production of registration insignia; or~~

[~~(3) providing~~] for automated on-premises and off-premises [~~self-service~~] registration and titling related services.

(c) This section applies only in a county in which the department's automated registration and title system has been implemented and in which 50,000 or more motor vehicles were registered during the preceding year.

SECTION 40.130. Section 502.1715, Transportation Code, as amended by Chapters 892 (S.B. 1670) and 1108 (H.B. 2337), Acts of the 79th Legislature, Regular Session, 2005, is transferred to Subchapter G, Chapter 502, Transportation Code, renumbered as

Section 502.357, Transportation Code, and reenacted and amended to read as follows:

Sec. 502.357 [~~502.1715~~]. FINANCIAL RESPONSIBILITY [~~ADDITIONAL FEE FOR CERTAIN DEPARTMENT~~] PROGRAMS. (a) In addition to other fees imposed for registration of a motor vehicle, at the time of application for registration or renewal of registration of a motor vehicle for which the owner is required to submit evidence of financial responsibility under Section 502.046 [~~502.153~~], the applicant shall pay a fee of $1. In addition to other fees imposed for registration of a motor vehicle, at the time of application for registration of a motor vehicle that is subject to Section 501.0234, the applicant shall pay a fee of $1. Fees collected under this section shall be remitted weekly to the department.

(b) Fees collected under this section shall be deposited to the credit of the state highway fund. Subject to appropriations, the money shall be used by the Department of Public Safety to:

(1) support the Department of Public Safety's reengineering of the driver's license system to provide for the issuance by the Department of Public Safety of a driver's license or personal identification certificate, to include use of image comparison technology;

(2) establish and maintain a system to support the driver responsibility program under Chapter 708; and

(3) make lease payments to the master lease purchase program for the financing of the driver's license reengineering project.

(c) Fees collected under this section shall be deposited to the credit of the state highway fund. Subject to appropriation, the money may be used by the Department of Public Safety, the Texas Department of Insurance, the Department of Information Resources, and the department to carry out Subchapter N, Chapter 601.

(d) The Department of Public Safety, the Texas Department of Insurance, the Department of Information Resources, and the department shall jointly adopt rules and develop forms necessary to administer this section.

SECTION 40.131. Section 502.1675, Transportation Code, is transferred to Subchapter G, Chapter 502, Transportation Code, renumbered as Section 502.358, Transportation Code, and amended to read as follows:

Sec. 502.358 [~~502.1675~~]. TEXAS EMISSIONS REDUCTION PLAN SURCHARGE. (a) In addition to the registration fees charged under Section 502.255 [~~502.167~~], a surcharge is imposed on the registration of a truck-tractor or commercial motor vehicle under that section in an amount equal to 10 percent of the total fees due for the registration of the truck-tractor or commercial motor vehicle under that section.

(b) The county tax assessor-collector shall remit the surcharge collected under this section to the comptroller at the time and in the manner prescribed by the comptroller for deposit in the Texas emissions reduction plan fund.

(c) This section expires August 31, 2013.

SECTION 40.132. Section 502.171, Transportation Code, is transferred to Subchapter G, Chapter 502, Transportation Code,

renumbered as Section 502.359, Transportation Code, and amended to read as follows:

Sec. 502.359 [~~502.171~~]. ADDITIONAL FEE FOR CERTAIN VEHICLES USING DIESEL MOTOR. (a) The registration fee under this chapter for a motor vehicle other than a passenger car, a truck with a gross vehicle weight [~~manufacturer's rated carrying capacity~~] of 18,000 pounds [~~two tons~~] or less, or a vehicle registered in combination under Section 502.255 [~~502.167~~] is increased by 11 percent if the vehicle has a diesel motor.

(b) The [~~A county assessor-collector shall show on the~~] registration receipt for a motor vehicle, other than a passenger car or a truck with a gross vehicle weight [~~manufacturer's rated carrying capacity~~] of 18,000 pounds [~~two tons~~] or less, must show that the vehicle has a diesel motor.

(c) The department may adopt rules to administer this section.

SECTION 40.133. Section 502.170, Transportation Code, is transferred to Subchapter G, Chapter 502, Transportation Code, and renumbered as Section 502.360, Transportation Code, to read as follows:

Sec. 502.360 [~~502.170~~]. ADDITIONAL FEE FOR REFLECTORIZED LICENSE PLATES. (a) In addition to the other registration fees for a license plate or set of license plates or other device used as the registration insignia, 30 cents shall be collected.

(b) The department shall use money collected under this section to purchase equipment and material for the production and manufacture of reflectorized license plates.

SECTION 40.134. The heading to Subchapter H, Chapter 502, Transportation Code, is amended to read as follows:

SUBCHAPTER H. OPTIONAL FEES [~~OFFENSES AND PENALTIES~~]

SECTION 40.135. Section 502.172, Transportation Code, is transferred to Subchapter H, Chapter 502, Transportation Code, renumbered as Section 502.401, Transportation Code, and amended to read as follows:

Sec. 502.401 [~~502.172~~]. OPTIONAL COUNTY FEE FOR ROAD AND BRIDGE FUND. (a) The commissioners court of a county by order may impose an additional fee, not to exceed $10, for registering a vehicle in the county.

(b) A vehicle that may be registered under this chapter without payment of a registration fee may be registered in a county imposing a fee under this section without payment of the additional fee.

(c) A fee imposed under this section may take effect only on January 1 of a year. The county must adopt the order and notify the department not later than September 1 of the year preceding the year in which the fee takes effect.

(d) A fee imposed under this section may be removed. The removal may take effect only on January 1 of a year. A county may remove the fee only by:

(1) rescinding the order imposing the fee; and

(2) notifying the department not later than September 1 of the year preceding the year in which the removal takes effect.

(e) The county assessor-collector of a county imposing a fee under this section shall collect the additional fee for a vehicle

when other fees imposed under this chapter are collected.

(f) The department shall collect the additional fee on a vehicle that is owned by a resident of a county imposing a fee under this section [~~and~~] that[~~, under this chapter,~~] must be registered directly with the department. The department shall send all fees collected for a county under this subsection to the county treasurer to be credited to the county road and bridge fund.

(g) The department shall adopt rules [~~and develop forms~~] necessary to administer registration [~~by mail~~] for a vehicle being registered in a county imposing a fee under this section.

SECTION 40.136. Section 502.1725, Transportation Code, is transferred to Subchapter H, Chapter 502, Transportation Code, renumbered as Section 502.402, Transportation Code, and amended to read as follows:

Sec. 502.402 [~~502.1725~~]. OPTIONAL COUNTY FEE FOR TRANSPORTATION PROJECTS. (a) This section applies only to a county:

(1) that borders the United Mexican States;

(2) that has a population of more than 300,000; and

(3) in which the largest municipality has a population of less than 300,000.

(b) The commissioners court of a county by order may impose an additional fee, not to exceed $10, for [~~registering~~] a vehicle registered in the county.

(c) A vehicle that may be registered under this chapter without payment of a registration fee may be registered [~~in a county imposing a fee~~] under this section without payment of the

additional fee.

(d) A fee imposed under this section may take effect [~~only on January 1 of a year. The county must adopt the order~~] and [~~notify the department not later than September 1 of the year preceding the year in which the fee takes effect.~~

[~~(e) A fee imposed under this section may~~] be removed in accordance with Section 502.401 requirements[~~. The removal may take effect only on January 1 of a year. A county may remove the fee only by:~~

[~~(1) rescinding the order imposing the fee; and~~

[~~(2) notifying the department not later than September 1 of the year preceding the year in which the removal takes effect~~].

(e) [~~(f)~~] The [~~county assessor-collector of a county imposing a fee under this section shall collect the~~] additional fee shall be collected for a vehicle when other fees imposed under this chapter are collected. The [~~county shall send the~~] fee revenue collected shall be sent to the regional mobility authority of the county to fund long-term transportation projects in the county.

(f) [~~(g) The department shall collect the additional fee on a vehicle that is owned by a resident of a county imposing a fee under this section and that, under this chapter, must be registered directly with the department. The department shall send all fees collected for a county under this subsection to the regional mobility authority of the county to fund long-term transportation projects in the county.~~

[~~(h)~~] The department shall adopt rules [~~and develop forms~~] necessary to administer registration [~~by mail~~] for a vehicle being

registered in a county imposing a fee under this section.

SECTION 40.137. Section 502.173, Transportation Code, is transferred to Subchapter H, Chapter 502, Transportation Code, renumbered as Section 502.403, Transportation Code, and amended to read as follows:

Sec. 502.403 [~~502.173~~]. OPTIONAL COUNTY FEE FOR CHILD SAFETY. (a) The commissioners court of a county that has a population greater than 1.3 million and in which a municipality with a population of more than one million is primarily located may impose by order an additional fee of not less than 50 cents or more than $1.50 for [~~registering~~] a vehicle registered in the county. The commissioners court of any other county may impose by order an additional fee of not more than $1.50 for registering a vehicle in the county.

(b) A vehicle that may be registered under this chapter without payment of a registration fee may be registered [~~in a county imposing a fee under this section~~] without payment of the additional fee.

(c) A fee imposed under this section may take effect [~~only on January 1 of a year. The county must adopt the order~~] and [~~notify the department not later than September 10 of the year preceding the year in which the fee takes effect.~~

[~~(d) A fee imposed under this section may~~] be removed in accordance with the provisions of Section 502.401[~~. The removal may take effect only on January 1 of a year. A county may remove the fee only by:~~

[~~(1) rescinding the order imposing the fee; and~~

[~~(2) notifying the department not later than September 1 of the year preceding the year in which the removal takes effect~~].

(d) [~~(e)~~] The [~~county assessor-collector of a county imposing a fee under this section shall collect the~~] additional fee shall be collected for a vehicle when other fees imposed under this chapter are collected.

(e) [~~(f)~~] A county imposing a fee under this section may deduct for administrative costs an amount of not more than 10 percent of the revenue it receives from the fee. The county may also deduct from the fee revenue an amount proportional to the percentage of county residents who live in unincorporated areas of the county. After making the deductions provided for by this subsection, the county shall send the remainder of the fee revenue to the municipalities in the county according to their population.

(f) [~~(g)~~] A municipality with a population greater than 850,000 shall deposit revenue from a fee imposed under this subsection to the credit of the child safety trust fund created under Section 106.001, Local Government Code. A municipality with a population less than 850,000 shall use revenue from a fee imposed under this section in accordance with Subsection (f), Article 102.014, Code of Criminal Procedure.

(g) [~~(h)~~] After deducting administrative costs, a county may use revenue from a fee imposed under this section only for a purpose permitted by Subsection (g), Article 102.014, Code of Criminal Procedure.

SECTION 40.138. Section 502.174, Transportation Code, is transferred to Subchapter H, Chapter 502, Transportation Code,

renumbered as Section 502.404, Transportation Code, and amended to read as follows:

Sec. 502.404 [~~502.174~~]. VOLUNTARY ASSESSMENT FOR YOUNG FARMER LOAN GUARANTEES. (a) When a person registers a commercial motor vehicle under Section 502.433 [~~502.163~~], the person shall pay a voluntary assessment of $5.

(b) The county assessor-collector shall send an assessment collected under this section to the comptroller, at the time and in the manner prescribed by the Texas Agricultural Finance Authority, for deposit in the Texas agricultural fund to the credit of the young farmer loan guarantee account.

(c) The Texas Agricultural Finance Authority shall prescribe procedures under which an assessment collected under this section may be refunded. The county assessor-collector of the county in which an assessment is collected shall:

(1) implement the refund procedures; and

(2) provide notice of those procedures to a person paying an assessment at the time of payment.

SECTION 40.139. Section 502.1745, Transportation Code, is transferred to Subchapter H, Chapter 502, Transportation Code, renumbered as Section 502.405, Transportation Code, and amended to read as follows:

Sec. 502.405 [~~502.1745~~]. DONOR EDUCATION, AWARENESS, AND REGISTRY PROGRAM [~~VOLUNTARY FEE~~]. (a) The department shall provide to each county assessor-collector the educational materials for prospective donors provided as required by the Donor Education, Awareness, and Registry Program of Texas under Chapter

49, Health and Safety Code. The [~~A county assessor-collector shall make the~~] educational materials shall be made available in each office authorized to accept applications for registration of motor vehicles.

(b) A person may elect to pay [~~county assessor-collector shall collect~~] an additional fee of $1 for the registration or renewal of registration of a motor vehicle to pay the costs of the Donor Education, Awareness, and Registry Program of Texas, established under Chapter 49, Health and Safety Code, and of the Texas Organ, Tissue, and Eye Donor Council, established under Chapter 113, Health and Safety Code [~~, if the person registering or renewing the registration of a motor vehicle opts to pay the additional fee~~]. Notwithstanding any other provision of this chapter, the county assessor-collector shall remit all fees collected under this subsection to the comptroller, who shall maintain the identity of the source of the fees.

(c) Three percent of all money collected under this section may be appropriated only to the department to administer this section.

SECTION 40.140. The heading to Subchapter I, Chapter 502, Transportation Code, is amended to read as follows:

SUBCHAPTER I. ALTERNATE REGISTRATION FEES [~~TRANSFER AND REMOVAL OF LICENSE PLATES FOR THE SALE OR TRANSFER OF USED VEHICLES~~]

SECTION 40.141. Section 502.164, Transportation Code, is transferred to Subchapter I, Chapter 502, Transportation Code, and renumbered as Section 502.431, Transportation Code, to read as follows:

Sec. 502.431 [~~502.164~~]. FEE: MOTOR VEHICLE USED EXCLUSIVELY TO TRANSPORT AND SPREAD FERTILIZER. The fee for a registration year for registration of a motor vehicle designed or modified and used exclusively to transport to the field and spread fertilizer, including agricultural limestone, is $75.

SECTION 40.142. Section 502.1586, Transportation Code, is transferred to Subchapter I, Chapter 502, Transportation Code, renumbered as Section 502.432, Transportation Code, and amended to read as follows:

Sec. 502.432 [~~502.1586~~]. [~~REGISTRATION PERIOD FOR TRUCK-TRACTOR OR COMMERCIAL MOTOR~~] VEHICLE TRANSPORTING SEASONAL AGRICULTURAL PRODUCTS. (a) The department shall provide for a monthly registration period for a truck-tractor or a commercial motor vehicle that:

(1) is used exclusively to transport a seasonal agricultural product; and

(2) would otherwise be registered for a vehicle registration year.

(b) The department shall [~~adopt forms for registration under this section. An applicant must indicate the number of months registration is applied for.~~

[~~(c) The department shall design,~~] prescribe [~~, and furnish~~] a registration receipt that is valid until the expiration of the designated registration period.

(c) [~~(d)~~] The registration fee for a registration under this section is computed at a rate of one-twelfth the annual registration fee under Section 502.253 [~~502.162~~], 502.433

[~~502.163~~], or 502.255 [~~502.167~~], as applicable, multiplied by the number of months in the registration period specified in the application for the registration, which may not be less than one month or longer than six months.

(d) [~~(e) A person issued a registration under this section commits an offense if the person, during the registration period for the truck-tractor or commercial motor vehicle, uses the truck-tractor or commercial motor vehicle for a purpose other than to transport a seasonal agricultural product.~~

[~~(f) A truck-tractor or commercial motor vehicle may not be registered under this section for a registration period that is less than one month or longer than six months.~~

[~~(g)~~] For purposes of this section, "to transport a seasonal agricultural product" includes any transportation activity necessary for the production, harvest, or delivery of an agricultural product that is produced seasonally.

SECTION 40.143. Section 502.163, Transportation Code, is transferred to Subchapter I, Chapter 502, Transportation Code, renumbered as Section 502.433, Transportation Code, and amended to read as follows:

Sec. 502.433 [~~502.163~~]. FEE: COMMERCIAL FARM MOTOR VEHICLE [~~USED PRIMARILY FOR FARM PURPOSES; OFFENSE~~]. (a) The registration fee for a commercial motor vehicle as a farm vehicle is 50 percent of the applicable fee under Section 502.253 [~~502.162~~] if the vehicle's owner will use the vehicle for commercial purposes only to transport:

(1) the person's own poultry, dairy, livestock,

livestock products, timber in its natural state, or farm products to market or another place for sale or processing;

(2) laborers from their place of residence to the owner's farm or ranch; or

(3) without charge, materials, tools, equipment, or supplies from the place of purchase or storage to the owner's farm or ranch exclusively for the owner's use or for use on the farm or ranch.

(b) A commercial motor vehicle may be registered under this section despite its use for transporting without charge the owner or a member of the owner's family:

(1) to attend church or school;

(2) to visit a doctor for medical treatment or supplies; or

(3) for other necessities of the home or family.

(c) Subsection (b) does not permit the use of a vehicle registered under this section in connection with gainful employment other than farming or ranching.

(d) The department shall provide distinguishing license plates for a vehicle registered under this section.

(e) The owner of a commercial motor vehicle registered under this section commits an offense if the person uses or permits to be used the vehicle for a purpose other than one permitted by this section. Each use or permission for use in violation of this section is a separate offense.

[~~(f) An offense under this section is a misdemeanor punishable by a fine of not less than $25 or more than $200.~~]

SECTION 40.144. Section 502.351, Transportation Code, is transferred to Subchapter I, Chapter 502, Transportation Code, renumbered as Section 502.434, Transportation Code, and amended to read as follows:

Sec. 502.434 [~~502.351~~]. FARM VEHICLES: EXCESS WEIGHT. (a) The owner of a registered commercial motor vehicle, truck-tractor, trailer, or semitrailer may obtain a short-term permit to haul loads of a weight more than that for which the vehicle is registered by paying an additional fee before the additional weight is hauled to transport:

(1) the person's own seasonal agricultural products to market or another point for sale or processing;

(2) seasonal laborers from their place of residence to a farm or ranch; or

(3) materials, tools, equipment, or supplies, without charge, from the place of purchase or storage to a farm or ranch exclusively for use on the farm or ranch.

(b) A permit may not be issued under this section for a period that is less than one month or that:

(1) is greater than one year; or

(2) extends beyond the expiration of the registration year for the vehicle.

(c) A permit issued under this section for a quarter must be for a calendar quarter.

(d) The fee for a permit under this section is a percentage of the difference between the registration fee otherwise prescribed [~~by this chapter~~] for the vehicle and the annual fee for the desired

weight, as follows:

One month (30 consecutive days)	10 percent
One quarter	30 percent
Two quarters	60 percent
Three quarters	90 percent

(e) The department shall design, prescribe, and furnish a sticker, plate, or other means of indicating the additional weight and the registration period for each vehicle registered under this section.

SECTION 40.145. Section 502.188, Transportation Code, is transferred to Subchapter I, Chapter 502, Transportation Code, renumbered as Section 502.435, Transportation Code, and amended to read as follows:

Sec. 502.435 [~~502.188~~]. CERTAIN SOIL CONSERVATION EQUIPMENT. (a) The owner of a truck-tractor, semitrailer, or low-boy trailer used on a highway exclusively to transport the owner's soil conservation machinery or equipment used in clearing real property, terracing, or building farm ponds, levees, or ditches may register the vehicle for a fee equal to 50 percent of the fee otherwise prescribed by this chapter for the vehicle.

(b) An owner may register only one truck-tractor and only one semitrailer or low-boy trailer under this section.

(c) An owner [~~applying for registration under this section~~] must certify [~~submit a statement~~] that the vehicle is to be used only as provided by Subsection (a).

(d) The registration receipt issued for a vehicle registered under this section must be carried in or on the vehicle

and [~~shall~~] state the nature of the operation for which the vehicle may be used. [~~The receipt must be carried at all times in or on the vehicle to permit ready inspection.~~]

(e) A vehicle to which this section applies that is operated on a public highway in violation of this section is considered to be operated while unregistered and is immediately subject to the applicable registration fees and penalties prescribed by this chapter.

SECTION 40.146. Chapter 502, Transportation Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. REGISTRATIONS EXEMPT FROM FEES

SECTION 40.147. Section 502.201, Transportation Code, is transferred to Subchapter J, Chapter 502, Transportation Code, as added by this Act, renumbered as Section 502.451, Transportation Code, and amended to read as follows:

Sec. 502.451 [~~502.201~~]. [~~LICENSE PLATES FOR~~] EXEMPT VEHICLES. (a) Before license plates are issued or delivered to the owner of a vehicle that is exempt by law from payment of registration fees, the department must approve the application for registration. The department may not approve an application if there is the appearance that:

(1) the vehicle was transferred to the owner or purported owner:

(A) for the sole purpose of evading the payment of registration fees; or

(B) in bad faith; or

(2) the vehicle is not being used in accordance with

the exemption requirements.

(b) The department shall revoke the registration of a vehicle issued license plates under this section and may recall the plates if the vehicle is no longer:

(1) owned and operated by the person whose ownership of the vehicle qualified the vehicle for the exemption; or

(2) used in accordance with the exemption requirements.

(c) The owner of a vehicle described by Subsection (b) shall return the license plates and registration receipt to the department for cancellation.

(d) The department shall provide by rule for the issuance of specially designated license plates for vehicles that are exempt by law. Except as provided by Subsection (g), the license plates must bear the word "exempt."

(e) A license plate under Subsection (d) is not issued annually, but remains on the vehicle until:

(1) the registration is revoked as provided by Subsection (b); or

(2) the plate is lost, stolen, or mutilated.

(f) A person who operates on a public highway a vehicle after the registration has been revoked is liable for the penalties for failing to register a vehicle.

(g) The department shall provide by rule for the issuance of regularly designed license plates not bearing the word "exempt" for a vehicle that is exempt by law and that is:

(1) a law enforcement vehicle, if the agency certifies

to the department that the vehicle will be dedicated to law enforcement activities;

(2) a vehicle exempt from inscription requirements under a rule adopted as provided by Section 721.003; or

(3) a vehicle exempt from inscription requirements under an order or ordinance adopted by a governing body of a municipality or commissioners court of a county as provided by Section 721.005, if the applicant presents a copy of the order or ordinance.

SECTION 40.148. Section 502.2015, Transportation Code, is transferred to Subchapter J, Chapter 502, Transportation Code, as added by this Act, renumbered as Section 502.452, Transportation Code, and amended to read as follows:

Sec. 502.452 [~~502.2015~~]. LIMITATION ON ISSUANCE OF EXEMPT LICENSE PLATES; SEIZURE OF CERTAIN VEHICLES. (a) The department may not issue exempt license plates for a vehicle owned by the United States, this state, or a political subdivision of this state unless when application is made for registration of the vehicle, the person who under Section 502.453 [~~502.202~~] has authority to certify to the department that the vehicle qualifies for registration under that section also certifies in writing to the department that there is printed on each side of the vehicle, in letters that are at least two inches high or in an emblem that is at least 100 square inches in size, the name of the agency, department, bureau, board, commission, or officer of the United States, this state, or the political subdivision of this state that has custody of the vehicle. The letters or emblem must be of a color

sufficiently different from the body of the vehicle to be clearly legible from a distance of 100 feet.

(b) The department may not issue exempt license plates for a vehicle owned by a person other than the United States, this state, or a political subdivision of this state unless, when application is made for registration of the vehicle, the person who under Section 502.453 [~~502.202~~] has authority to certify to the department that the vehicle qualifies for registration under that section also certifies in writing to the department that the name of the owner of the vehicle is printed on the vehicle in the manner prescribed by Subsection (a).

(c) A peace officer listed in Article 2.12, Code of Criminal Procedure, may seize a motor vehicle displaying exempt license plates if the vehicle is:

(1) operated on a public highway; and

(2) not identified in the manner prescribed by Subsection (a) or (b), unless the vehicle is covered by Subsection (f).

(d) A peace officer who seizes a motor vehicle under Subsection (c) may require that the vehicle be:

(1) moved to the nearest place of safety off the main-traveled part of the highway; or

(2) removed and placed in the nearest vehicle storage facility designated or maintained by the law enforcement agency that employs the peace officer.

(e) To obtain the release of the vehicle, in addition to any other requirement of law, the owner of a vehicle seized under

Subsection (c) must:

(1) remedy the defect by identifying the vehicle as required by Subsection (a) or (b); or

(2) agree in writing with the law enforcement agency to provide evidence to that agency, before the 10th day after the date the vehicle is released, that the defect has been remedied by identifying the vehicle as required by Subsection (a) or (b).

(f) Subsections (a) and (b) do not apply to a vehicle to which Section 502.451(g) [~~502.201(g) or 502.206~~] applies.

(g) For purposes of this section, an exempt license plate is a license plate issued by the department that is plainly marked with the word "exempt."

SECTION 40.149 Section 502.202, Transportation Code, is transferred to Subchapter J, Chapter 502, Transportation Code, as added by this Act, renumbered as Section 502.453, Transportation Code, and amended to read as follows:

Sec. 502.453 [~~502.202~~]. GOVERNMENT-OWNED VEHICLES; PUBLIC SCHOOL BUSES; FIRE-FIGHTING VEHICLES; COUNTY MARINE LAW ENFORCEMENT VEHICLES. (a) The owner of a motor vehicle, trailer, or semitrailer may annually apply for registration under Section 502.451 [~~502.201~~] and is exempt from the payment of a registration fee under this chapter if the vehicle is:

(1) owned by and used exclusively in the service of:

(A) the United States;

(B) this state; or

(C) a county, municipality, or school district in this state;

(2) owned by a commercial transportation company and used exclusively to provide public school transportation services to a school district under Section 34.008, Education Code;

(3) designed and used exclusively for fire fighting;

(4) owned by a volunteer fire department and used exclusively in the conduct of department business; [~~or~~]

(5) privately owned and used by a volunteer exclusively in county marine law enforcement activities, including rescue operations, under the direction of the sheriff's department; or

(6) used by law enforcement under an alias for covert criminal investigations.

(b) An application for registration under this section must be made by a person having the authority to certify that the vehicle meets the exemption requirements prescribed by Subsection (a). An application for registration under this section of a fire-fighting vehicle described by Subsection (a)(3) must include a reasonable description of the vehicle and of any fire-fighting equipment mounted on the vehicle. An application for registration under this section of a vehicle described by Subsection (a)(5) must include a statement signed by a person having the authority to act for a sheriff's department that the vehicle is used exclusively in marine law enforcement activities under the direction of the sheriff's department.

SECTION 40.150. Section 502.203, Transportation Code, is transferred to Subchapter J, Chapter 502, Transportation Code, as added by this Act, renumbered as Section 502.454, Transportation

Code, and amended to read as follows:

Sec. 502.454 [~~502.203~~]. VEHICLES USED BY NONPROFIT DISASTER RELIEF ORGANIZATIONS. (a) The owner of a commercial motor vehicle, trailer, or semitrailer may apply for registration under Section 502.451 [~~502.201~~] and is exempt from the payment of the registration fee that would otherwise be required by this chapter if the vehicle is owned and used exclusively for emergencies by a nonprofit disaster relief organization.

(b) An application for registration under this section must include:

(1) a statement by the owner of the vehicle that the vehicle is used exclusively for emergencies and has not been used for any other purpose;

(2) a statement signed by an officer of the nonprofit disaster relief organization that the vehicle has not been used for any purpose other than emergencies and qualifies for registration under this section; and

(3) a reasonable description of the vehicle and the emergency equipment included in the vehicle.

(c) An applicant for registration under this section must pay a fee of $5.

(d) A commercial motor vehicle registered under this section must display the name of the organization that owns it on each front door.

(e) A vehicle registered under this section must display at all times an appropriate license plate showing the vehicle's status.

(f) A vehicle registered under this section that is used for any purpose other than an emergency may not again be registered under this section.

SECTION 40.151. Section 502.2035, Transportation Code, is transferred to Subchapter J, Chapter 502, Transportation Code, as added by this Act, and renumbered as Section 502.455, Transportation Code, to read as follows:

Sec. 502.455 [~~502.2035~~]. TRAILERS AND SEMITRAILERS OWNED BY RELIGIOUS ORGANIZATIONS. (a) A trailer or semitrailer may be registered without payment if the trailer or semitrailer is:

(1) owned by an organization that qualifies as a religious organization under Section 11.20, Tax Code; and

(2) used primarily for the purpose of transporting property in connection with the charitable activities and functions of the organization.

(b) An application for registration under this section must include a statement signed by an officer of the religious organization stating that the trailer or semitrailer qualifies for registration under this section.

SECTION 40.152. Section 502.204, Transportation Code, is transferred to Subchapter J, Chapter 502, Transportation Code, as added by this Act, renumbered as Section 502.456, Transportation Code, and amended to read as follows:

Sec. 502.456 [~~502.204~~]. EMERGENCY SERVICES VEHICLES. (a) A vehicle may be registered without payment if:

(1) the vehicle is owned or leased by an emergency medical services provider that:

(A) is a nonprofit entity; or

(B) is created and operated by:

(i) a county;

(ii) a municipality; or

(iii) any combination of counties and municipalities through a contract, joint agreement, or other method provided by Chapter 791, Government Code, or other law authorizing counties and municipalities to provide joint programs; and

(2) the vehicle:

(A) is authorized under an emergency medical services provider license issued by the Department of State [~~Texas Board of~~] Health Services under Chapter 773, Health and Safety Code, and is used exclusively as an emergency medical services vehicle; or

(B) is an emergency medical services chief or supervisor vehicle and is used exclusively as an emergency services vehicle.

(b) A vehicle may be registered without payment of a registration fee if the vehicle:

(1) is owned by the Civil Air Patrol, Texas Wing; and

(2) is used exclusively as an emergency services vehicle by members of the Civil Air Patrol, Texas Wing.

(c) An application for registration under Subsection (a) must be accompanied by a copy of the license issued by the Department of State [~~Texas Board of~~] Health Services. An application for registration of an emergency medical services vehicle must include a statement signed by an officer of the

emergency medical services provider that the vehicle is used exclusively as an emergency response vehicle and qualifies for registration under this section. An application for registration of an emergency medical services chief or supervisor vehicle must include a statement signed by an officer of the emergency medical services provider stating that the vehicle qualifies for registration under this section.

(d) An application for registration under Subsection (b) must include a statement signed by an officer of the Civil Air Patrol, Texas Wing, that the vehicle is used exclusively as an emergency services vehicle by members of the Civil Air Patrol, Texas Wing.

(e) The department must approve an application for registration under this section as provided by Section 502.451 [~~502.201~~].

SECTION 40.153. Section 520.0225, Transportation Code, is transferred to Subchapter J, Chapter 502, Transportation Code, as added by this Act, renumbered as Section 502.457, Transportation Code, and amended to read as follows:

Sec. 502.457 [~~520.0225~~]. PERSONS ON ACTIVE DUTY IN ARMED FORCES OF UNITED STATES. (a) This section applies only to a used motor vehicle that is owned by a person who:

(1) is on active duty in the armed forces of the United States;

(2) is stationed in or has been assigned to another nation under military orders; and

(3) has registered the vehicle or been issued a

license for the vehicle under the applicable status of forces agreement by:

(A) the appropriate branch of the armed forces of the United States; or

(B) the nation in which the person is stationed or to which the person has been assigned.

(b) The requirement [~~in Section 520.021~~] that a used vehicle be registered under the law of this state does not apply to a vehicle described by Subsection (a). In lieu of delivering the license receipt to the transferee of the vehicle, as required by Section 501.0721 [~~520.022~~], the person selling, trading, or otherwise transferring a used motor vehicle described by Subsection (a) shall deliver to the transferee:

(1) a letter written on official letterhead by the owner's unit commander attesting to the registration of the vehicle under Subsection (a)(3); or

(2) the registration receipt issued by the appropriate branch of the armed forces or host nation.

(c) A registration receipt issued by a host nation that is not written in the English language must be accompanied by:

(1) a written translation of the registration receipt in English; and

(2) an affidavit, in English and signed by the person translating the registration receipt, attesting to the person's ability to translate the registration receipt into English.

SECTION 40.154. Chapter 502, Transportation Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. OFFENSES AND PENALTIES

SECTION 40.155. Section 502.401, Transportation Code, is transferred to Subchapter K, Chapter 502, Transportation Code, as added by this Act, renumbered as Section 502.471, Transportation Code, and amended to read as follows:

Sec. 502.471 [~~502.401~~]. GENERAL PENALTY. (a) A person commits an offense if the person violates a provision of this chapter and no other penalty is prescribed for the violation.

(b) Unless otherwise specified, an [~~This section does not apply to a violation of Section 502.003, 502.101, 502.109, 502.112, 502.113, 502.114, 502.152, 502.164, or 502.282.~~

[~~(c) An~~] offense under this section is a misdemeanor punishable by a fine not to exceed $200.

SECTION 40.156. Section 502.402, Transportation Code, is transferred to Subchapter K, Chapter 502, Transportation Code, as added by this Act, renumbered as Section 502.472, Transportation Code, and amended to read as follows:

Sec. 502.472 [~~502.402~~]. OPERATION OF VEHICLE UNDER IMPROPER REGISTRATION [~~UNREGISTERED MOTOR VEHICLE~~]. [~~(a)~~] A person commits an offense if the person operates a motor vehicle that has not been registered or registered for a class other than that to which the vehicle belongs as required by law. [~~An offense under this subsection is a misdemeanor punishable by a fine not to exceed $200.~~]

SECTION 40.157. Section 502.404, Transportation Code, is transferred to Subchapter K, Chapter 502, Transportation Code, as added by this Act, renumbered as Section 502.473, Transportation

Code, and amended to read as follows:

Sec. 502.473 [~~502.404~~]. OPERATION OF VEHICLE WITHOUT [~~LICENSE PLATE OR~~] REGISTRATION INSIGNIA. (a) A person commits an offense if the person operates on a public highway during a registration period a passenger car, [~~or~~] commercial motor vehicle, road tractor, motorcycle, trailer, or semitrailer that does not display a [~~two license plates, at the front and rear of the vehicle, that have been:~~

[~~(1) assigned by the department for the period; or~~

[~~(2)~~] validated [~~by a~~] registration insignia issued by the department that establishes that the vehicle is registered [~~for the period~~].

(b) Subsection [~~A person commits an offense if the person operates on a public highway during a registration period a passenger car or commercial motor vehicle, other than a vehicle assigned license plates for the registration period, that does not properly display the registration insignia issued by the department that establishes that the license plates have been validated for the period.~~

[~~(c) A person commits an offense if the person operates on a public highway during a registration period a road tractor, motorcycle, trailer, or semitrailer that does not display a license plate, attached to the rear of the vehicle, that has been:~~

[~~(1) assigned by the department for the period; or~~

[~~(2) validated by a registration insignia issued by the department that establishes that the vehicle is registered for the period.~~

[~~(d) Subsections~~] (a) does [~~and (b) do~~] not apply to a dealer operating a vehicle as provided by law.

(c) [~~(e) An offense under this section is a misdemeanor punishable by a fine not to exceed $200.~~

[~~(f)~~] A court may dismiss a charge brought under Subsection (a) if the defendant:

(1) remedies the defect before the defendant's first court appearance; or [~~and~~]

(2) [~~pays an administrative fee not to exceed $10.~~

[~~(g) A court may dismiss a charge brought under Subsection (b) if the defendant:~~

[~~(1)~~] shows that [~~:~~

[~~(A)~~] the passenger car or commercial [~~motor~~] vehicle was issued a registration insignia by the department that was attached to the passenger car or commercial vehicle that establishes that the vehicle was registered for the period during which the offense was committed; and

(3) [~~(B) the registration insignia described in Paragraph (A) was attached to the passenger car or commercial motor vehicle before the defendant's first court appearance; and~~

[~~(2)~~] pays an administrative fee not to exceed $10.

SECTION 40.158. Subchapter K, Chapter 502, Transportation Code, as added by this Act, is amended by adding Section 502.474 to read as follows:

Sec. 502.474. OPERATION OF ONE-TRIP PERMIT VEHICLE. A person commits an offense if the person operates a vehicle for which a one-trip permit is required without the registration receipt and

properly displayed temporary tag.

SECTION 40.159. Section 502.409, Transportation Code, as amended by Chapters 30 (S.B. 369) and 1027 (H.B. 1623), Acts of the 80th Legislature, Regular Session, 2007, is transferred to Subchapter K, Chapter 502, Transportation Code, as added by this Act, renumbered as Section 502.475, Transportation Code, and amended to read as follows:

Sec. 502.475 [~~502.409~~]. WRONG, FICTITIOUS, ALTERED, OR OBSCURED INSIGNIA [~~LICENSE PLATE~~]. (a) A person commits an offense if the person attaches to or displays on a motor vehicle [~~a number plate or~~] registration insignia that:

(1) is assigned to a different motor vehicle;

(2) is assigned to the vehicle under any other motor vehicle law other than by the department;

(3) is assigned for a registration period other than the registration period in effect; or

(4) is fictitious [~~;~~

[~~(5) has blurring or reflective matter that significantly impairs the readability of the name of the state in which the vehicle is registered or the letters or numbers of the license plate number at any time;~~

[~~(6) has an attached illuminated device or sticker, decal, emblem, or other insignia that is not authorized by law and that interferes with the readability of the letters or numbers of the license plate number or the name of the state in which the vehicle is registered; or~~

[~~(7) has a coating, covering, protective material, or~~

~~other apparatus that:~~

[~~(A) distorts angular visibility or detectability;~~

[~~(B) alters or obscures one-half or more of the name of the state in which the vehicle is registered; or~~

[~~(C) alters or obscures the letters or numbers of the license plate number or the color of the plate~~].

(b) An [~~Except as provided by Subsection (f), an~~] offense under Subsection (a) is a misdemeanor punishable by a fine of not more than $200, unless it is shown at the trial of the offense that the owner knowingly altered or made illegible the letters, numbers, and other identification marks, in which case the offense is a Class B misdemeanor.

[~~(c) Subsection (a)(7) may not be construed to apply to:~~

[~~(1) a trailer hitch installed on a vehicle in a normal or customary manner;~~

[~~(2) a transponder, as defined by Section 228.057, that is attached to a vehicle in the manner required by the issuing authority;~~

[~~(3) a wheelchair lift or wheelchair carrier that is attached to a vehicle in a normal or customary manner;~~

[~~(4) a trailer being towed by a vehicle; or~~

[~~(5) a bicycle rack that is attached to a vehicle in a normal or customary manner.~~

[~~(c) A court may dismiss a charge brought under Subsection (a)(3), (5), (6), or (7) if the defendant:~~

[~~(1) remedies the defect before the defendant's first~~

~~court appearance; and~~

[~~(2) pays an administrative fee not to exceed $10.~~

[~~(f) An offense under Subsection (a)(4) is a Class B misdemeanor.~~]

SECTION 40.160. Subchapter K, Chapter 502, Transportation Code, as added by this Act, is amended by adding Sections 502.476, 502.477, 502.478, and 502.479 to read as follows:

Sec. 502.476. FOREIGN COMMERCIAL REGISTRATION; OFFENSE. A person who violates Section 502.093 commits an offense.

Sec. 502.477. NONRESIDENT-OWNED VEHICLES USED TO TRANSPORT AGRICULTURAL PRODUCT; OFFENSE. (a) A person operating a vehicle under a permit issued under Section 502.092 commits an offense if the person:

(1) transports farm products to a place of market, storage, or processing or a railhead or seaport that is farther from the place of production or point of entry, as appropriate, than the distance provided for in the permit; or

(2) follows a route other than that prescribed by the department.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $25 or more than $200.

Sec. 502.478. COMMERCIAL MOTOR VEHICLE USED PRIMARILY FOR AGRICULTURAL PURPOSES; OFFENSE. An offense under Section 502.432 is a misdemeanor punishable by a fine of not less than $25 or more than $200.

Sec. 502.479. SEASONAL AGRICULTURAL VEHICLE; OFFENSE. A person issued a registration under Section 502.432 commits an

offense if the person, during the registration period, uses the truck-tractor or commercial motor vehicle for a purpose other than to transport a seasonal agricultural product.

SECTION 40.161. Section 520.014, Transportation Code, is transferred to Subchapter K, Chapter 502, Transportation Code, as added by this Act, renumbered as Section 502.480, Transportation Code, and amended to read as follows:

Sec. 502.480 [~~520.014~~]. VIOLATION BY COUNTY ASSESSOR-COLLECTOR; PENALTY. (a) A county assessor-collector commits an offense if the county assessor-collector knowingly accepts an application for the registration of a motor vehicle that:

(1) has had the original motor number or vehicle identification number removed, erased, or destroyed; and

(2) does not bear a motor number or vehicle identification number assigned by the department.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $10 and not more than $50.

SECTION 40.162. Chapter 502, Transportation Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. REGISTRATION AND TRANSFER OF USED VEHICLES

SECTION 40.163. Section 502.451, Transportation Code, is transferred to Subchapter L, Chapter 502, Transportation Code, as added by this Act, renumbered as Section 502.491, Transportation Code, and amended to read as follows:

Sec. 502.491 [~~502.451~~]. TRANSFER OF VEHICLE REGISTRATION [~~AND REMOVAL OF LICENSE PLATES~~]. (a) On the sale or transfer of a

motor vehicle [~~to a dealer~~], [~~as defined by Section 503.001, who holds a general distinguishing number issued under Chapter 503, the dealer shall remove each license plate and~~] the registration insignia issued for the motor vehicle shall be removed.

[~~(a-1) On a sale or transfer of a motor vehicle to a person that does not hold a general distinguishing number issued under Chapter 503, the seller or transferor may remove each license plate and the registration insignia issued for the motor vehicle.~~]

(b) [~~A license plate removed from a motor vehicle under Subsection (a) or (a-1) must be:~~

[~~(1) disposed of in the manner specified by the department; or~~

[~~(2) transferred to another vehicle owned by the seller or transferor as provided by Section 502.452.~~

[~~(c)~~] The part of the registration period remaining at the time of the sale or transfer shall continue with the vehicle being sold or transferred and does not transfer with the license plates or registration validation insignia. To continue the remainder of the registration period, the purchaser or transferee must file the documents required under Section 501.145 [~~520.031~~].

SECTION 40.164. Section 502.454, Transportation Code, is transferred to Subchapter L, Chapter 502, Transportation Code, as added by this Act, renumbered as Section 502.492, Transportation Code, and amended to read as follows:

Sec. 502.492 [~~502.454~~]. TEMPORARY PERMIT FOR A VEHICLE PURCHASED [~~IN A PRIVATE PARTY TRANSACTION~~]. (a) A purchaser [~~or transferee~~] may obtain from the department a temporary

[~~single-trip~~] permit to operate a motor vehicle:

(1) that is subject to registration in this state;

(2) from which the license plates and the registration insignia have been removed as authorized by Section 502.491 [~~502.451(a-1)~~]; and

(3) that is not authorized to travel on a public roadway because the required license plates and the registration insignia are not attached to the vehicle.

(b) The department may issue the permit in accordance with this section.

(c) A permit issued under this section is valid for one trip between the point of origin and the destination and those intermediate points specified in the permit.

(d) A permit issued under this section may not be valid for longer than a five-day period.

(e) A person may obtain a permit under this section by applying, as [~~on a form~~] provided by the department, to the department. Application may be made using the department's Internet website.

(f) A person is eligible to receive only one permit under this section for a motor vehicle.

(g) A permit receipt issued under this section must be in [~~on~~] a manner [~~form~~] provided by the department. The receipt must contain the information required by this section and shall be carried in the vehicle at all times during which it is valid.

(h) The department may refuse to issue a permit under this section for any vehicle if in the department's opinion the

applicant has been involved in operations that constitute an abuse of the privilege granted under this section.

SECTION 40.165. Section 504.001(a), Transportation Code, is amended to read as follows:

(a) In this chapter:

(1) [~~,~~] "commission" and "director" have the meanings assigned by Section 201.001; and

(2) "seller" and "purchaser" have the meanings assigned by Section 501.002.

SECTION 40.166. Section 504.004, Transportation Code, is renumbered as Section 504.0011, Transportation Code, and amended to read as follows:

Sec. 504.0011 [~~504.004~~]. RULES [~~AND FORMS~~]. The commission may adopt rules [~~and the department may issue forms~~] to implement and administer this chapter.

SECTION 40.167. Section 504.002, Transportation Code, is amended to read as follows:

Sec. 504.002. [~~PROVISIONS OF~~] GENERAL PROVISIONS [~~APPLICABILITY~~]. Unless expressly provided by this chapter or by department rule:

(1) except for license plates specified as exempt, [~~any vehicle is eligible to be issued specialty license plates, provided that the department may vary the design of a license plate to accommodate or reflect its use on a motor vehicle other than a passenger car or light truck;~~

[~~(2) an application for specialty license plates must be submitted in the manner specified by the department, provided~~

~~that if issuance of a specialty license plate is limited to particular persons or motor vehicles, the application must be accompanied by evidence satisfactory to the department that the applicant or the applicant's vehicle is eligible;~~

[~~(3)~~] the fee for issuance of a [~~specialty~~] license plate, including replacement plates, is in addition to each other fee that is paid for [~~or~~] at the time of the registration of the motor vehicle and shall be deposited to the credit of the state highway fund;

(2) [~~(4) each fee described by this chapter is an annual fee, provided that the department may prorate the fee for a specialty license plate fee on a monthly basis to align the license plate fee to the registration period for the motor vehicle for which the license plate was issued, and if a fee is prorated the allocation of the fee by this chapter to an account or fund shall be prorated in proportion;~~

[~~(5)~~] the department is the exclusive owner of the design of each [~~specialty~~] license plate;

(3) [~~(6) the director may refuse to issue a specialty license plate with a design or alphanumeric pattern that the director considers potentially objectionable to one or more members of the public and the director's refusal may not be overturned in the absence of an abuse of discretion;~~

[~~(7) for each specialty license plate that is issued through a county tax assessor-collector and for which the department is allocated a portion of a fee for administrative costs, the department shall credit 50 cents from its administrative~~

~~costs to the county treasurer of the applicable county, who shall credit the money to the general fund of the county to defray the costs to the county of administering this chapter;~~

[~~(8)~~] if a [~~specialty~~] license plate is lost, stolen, or mutilated, an application for a replacement plate must be accompanied by the fee prescribed by Section 502.060 [~~502.184(a)(2);~~

[~~(9) if the owner of a motor vehicle for which a specialty license plate is issued disposes of the vehicle or for any reason ceases to be eligible for that specialty license plate, the owner shall return the specialty license plate to the department~~]; and

(4) the department shall prepare the designs and specifications of license plates [~~(10) a person who is issued a specialty license plate may not transfer it to another person or vehicle without first receiving approval from the department~~].

SECTION 40.168. Section 504.103, Transportation Code, is transferred to Subchapter A, Chapter 504, Transportation Code, renumbered as Section 504.005, Transportation Code, and amended to read as follows:

Sec. 504.005 [~~504.103~~]. DESIGN AND ALPHANUMERIC PATTERN. The department has sole control over the design, typeface, color, and alphanumeric pattern for all [~~a personalized~~] license plates [~~plate~~].

SECTION 40.169. Subchapter A, Chapter 504, Transportation Code, is amended by adding Section 504.006 to read as follows:

Sec. 504.006. DESIGN OF LICENSE PLATES. (a) The department

shall prepare the designs and specifications of license plates and devices selected by the commission to be used as a unique identifier.

(b) The department shall design each license plate to include a design at least one-half inch wide that represents in silhouette the shape of Texas and that appears between letters and numerals. The department may omit the silhouette of Texas from specially designed license plates.

(c) To promote highway safety, each license plate shall be made with a reflectorized material that provides effective and dependable brightness for the period for which the plate is issued.

SECTION 40.170. Section 502.053, Transportation Code, is transferred to Subchapter A, Chapter 504, Transportation Code, renumbered as Section 504.007, Transportation Code, and amended to read as follows:

Sec. 504.007 [~~502.053~~]. COST OF MANUFACTURING [~~LICENSE PLATES OR REGISTRATION INSIGNIA~~]. (a) The Texas Department of Transportation shall reimburse the Texas Department of Criminal Justice for the cost of manufacturing license plates or registration insignia as [~~the license plates or insignia and~~] the invoices [~~invoice~~] for the license plates or insignia are delivered to the Texas Department of Transportation.

(b) When manufacturing is started, the Texas Department of Criminal Justice and [~~,~~] the Texas Department of Transportation, [~~and the comptroller,~~] after negotiation, shall set the price to be paid for each license plate or insignia. The price must be determined from:

(1) the cost of metal, paint, and other materials purchased;

(2) the inmate maintenance cost per shift [~~day~~];

(3) overhead expenses;

(4) miscellaneous charges; and

(5) a previously agreed upon [~~approved~~] amount of profit for the work.

[~~(c) The annual profit received by the Texas Department of Criminal Justice from all contracts for the manufacturing of license plates or related manufacturing may not be less than the profit received by the Texas Department of Corrections for manufacturing license plates for use in 1974.~~]

SECTION 40.171. Subchapter A, Chapter 504, Transportation Code, is amended by adding Sections 504.008 and 504.009 to read as follows:

Sec. 504.008. REPLACEMENT OF LICENSE PLATE. (a) The owner of a registered motor vehicle may obtain replacement license plates through the county assessor-collector by:

(1) certifying that the replacement plates will not be used on any other vehicle owned or operated by the person making the statement;

(2) paying a fee of $5 plus the fees required by Sections 502.356(a) and 502.360 for each set of replacement license plates, unless otherwise specified by law; and

(3) returning each replaced plate in the owner's possession.

(b) A fee is not required under this section if the

replacement fee has been paid under Section 502.060. No fee is required for the replacement of specialized license plates issued under Section 504.202, 504.305, 504.308, 504.315(c), (e), or (f), 504.513, or 504.515.

(c) The owner of a vehicle issued license plates approved under Section 504.501(b) or 504.502(c) may obtain approval of another set of license plates as provided by Section 504.501 or 504.502, respectively. The fee for approval of replacement license plates is $5.

(d) Replacement license plates may not be issued except in compliance with this section.

(e) A county assessor-collector shall retain $2.50 of each fee collected under this section and shall report and send the remainder to the department as provided by Section 502.060.

(f) Replacement license plates may be used in the registration year in which the plates are issued and during each succeeding year of the six-year period as prescribed by Section 502.059(b) if the registration insignia is properly displayed on the vehicle.

(g) Subsection (f) does not apply to the issuance of specialized license plates for limited distribution, including state official license plates, exempt plates for governmental entities, and temporary registration plates.

(h) The owner of a vehicle listed in Section 502.059(f) or 504.011(d) may obtain replacement plates and a replacement registration insignia by paying a fee of $5 plus the fees required by Sections 502.356(a) and 502.360(a).

Sec. 504.009. SPECIALTY LICENSE PLATES. (a) The department shall prepare the designs and specifications of specialty license plates.

(b) Any motor vehicle other than a vehicle manufactured for off-highway use only is eligible to be issued specialty license plates, provided that the department may vary the design of a license plate to accommodate or reflect its use on a motor vehicle other than a passenger car or light truck.

(c) An application for specialty license plates must be submitted in the manner specified by the department, provided that if issuance of a specialty license plate is limited to particular persons or motor vehicles, the application must be accompanied by evidence satisfactory to the department that the applicant or the applicant's vehicle is eligible.

(d) Each fee described by this chapter is an annual fee, provided that the department may prorate the fee for a specialty license plate fee on a monthly basis to align the license plate fee to the registration month for the motor vehicle for which the license plate was issued, and if a fee is prorated the allocation of the fee by this chapter to an account or fund shall be prorated in proportion.

(e) The director or the director's designee may refuse to issue a specialty license plate with a design or alphanumeric pattern that the director or designee considers potentially objectionable to one or more members of the public and the director or designee's refusal may not be overturned in the absence of an abuse of discretion.

(f) The department is the exclusive owner of the design of each license plate.

(g) For each specialty license plate that is issued by a county assessor-collector and for which the department is allocated a portion of the fee for administrative costs, the department shall credit 50 cents from its administrative costs to the county treasurer of the applicable county, who shall credit the money to the general fund of the county to defray the costs to the county of administering this chapter.

(h) A replacement license plate of a specialty license plate must be accompanied by an application for a replacement plate and the fee prescribed by Section 504.008.

(i) If the owner of a motor vehicle for which a specialty license plate is issued disposes of the vehicle or for any reason ceases to be eligible for that specialty license plate, the owner shall return the specialty license plate to the department.

(j) A person who is issued a specialty license plate may not transfer the plate to another person or vehicle unless the department approves the transfer.

SECTION 40.172. Section 504.003, Transportation Code, is renumbered as Section 504.010, Transportation Code, and amended to read as follows:

Sec. 504.010 [~~504.003~~]. SOUVENIR LICENSE PLATES. (a) The department may issue a souvenir version of any specialty license plate for any vehicle[~~, including a motorcycle~~].

(b) The fee for a single souvenir license plate is $20. The fee shall be deposited to the credit of the state highway fund

unless the souvenir license plate is a replica of a specialty license plate issued under Subchapter G or I for which the fee is deposited to an account other than the state highway fund, in which case:

(1) $10 of the fee for the souvenir license plate shall be deposited to the credit of the designated account; and

(2) $10 of the fee for the souvenir license plate shall be deposited to the credit of the state highway fund.

(c) If the souvenir license plate is personalized, the fee for the plate is $40. Of the fee:

(1) $20 shall be deposited to the credit of the state highway fund;

(2) $10 shall be deposited to the credit of the designated account if the souvenir license plate is a replica of a specialty license plate issued under Subchapter G or I for which the fee is deposited to a designated account other than the state highway fund; and

(3) the remainder shall be deposited to the credit of the general revenue fund.

(d) A souvenir license plate may not be used on a motor vehicle[~~, including a motorcycle,~~] and is not an insignia of registration for a motor vehicle. Each souvenir license plate must be identified by the department in a way that identifies it to law enforcement officers and others as a souvenir license plate.

(e) A beneficiary of a specialty license plate issued under Subchapter G or I, as designated by the applicable section of those subchapters, may purchase the specialty license plates, in minimum

quantity amounts determined by the department [~~boxes of 25,~~] for use or resale by the beneficiary. The beneficiary shall pay the required fee per plate, less the amount of the fee that would be deposited to the credit of the designated account.

SECTION 40.173. Subchapter A, Chapter 504, Transportation Code, is amended by adding Section 504.011 to read as follows:

Sec. 504.011. ISSUANCE OF LICENSE PLATE. (a) On payment of the prescribed fee, an applicant for motor vehicle registration shall be issued a license plate or set of plates.

(b) Subject to Subchapter I, the department shall issue only one license plate or set of plates for a vehicle during a seven-year period.

(c) On application and payment of the prescribed fee for a renewal of the registration of a vehicle for the first through the seventh year the department shall issue a registration insignia for the validation of the license plate or plates to be attached as provided by Chapter 502.

(d) The registration insignia for validation of a license plate shall be attached to the rear license plate of the vehicle, if the vehicle is:

(1) a motorcycle;

(2) machinery used exclusively to drill water wells or construction machinery for which a distinguishing license plate has been issued under Section 502.146; or

(3) oil well servicing, oil clean out, or oil well drilling machinery or equipment for which a distinguishing license plate has been issued under Subchapter G, Chapter 623.

SECTION 40.174. Section 504.101(a), Transportation Code, is amended to read as follows:

(a) The department shall issue personalized license plates. The department may not issue more than one set of license plates with the same alphanumeric pattern. All personalized license plates issued before January 1, 2013, may continue to be renewed in accordance with the law at the time of initial issuance.

SECTION 40.175. Sections 504.201(b), (d), and (g), Transportation Code, are amended to read as follows:

(b) The department shall issue specialty license plates for a motor vehicle that:

(1) has a gross vehicle weight [~~manufacturer's rated carrying capacity~~] of 18,000 pounds [~~two tons~~] or less; and

(2) is regularly operated for noncommercial use by or for the transportation of a person with a permanent disability.

(d) The initial application for specialty license plates under this section must be accompanied by a written statement from a physician who is licensed to practice medicine in this state or in a state adjacent to this state or who is authorized by applicable law to practice medicine in a hospital or other health facility of the Department of Veterans Affairs. If the applicant has a mobility problem caused by a disorder of the foot, the written statement may be issued by a person licensed to practice podiatry in this state or a state adjacent to this state. In this subsection, "podiatry" has the meaning assigned by Section 681.001. The statement must certify that the person making the application or on whose behalf the application is made is legally blind or has a mobility problem

that substantially impairs the person's ability to ambulate. The statement must also certify whether a mobility problem is temporary or permanent. A written statement is not required as acceptable medical proof if:

(1) the person with a disability:

(A) has had a limb, hand, or foot amputated; or

(B) must use a wheelchair; and

(2) the applicant executes a statement [~~and the county assessor-collector processing the application execute an affidavit~~] attesting to the person's disability before the county assessor-collector.

(g) In addition to a license plate issued under this section, an eligible person is entitled to be issued a set of the license plates for each motor vehicle owned by the person that has a gross vehicle weight [~~carrying capacity~~] of 18,000 pounds [~~two tons~~] or less and is equipped with special equipment that:

(1) is designed to allow a person who has lost the use of one or both of the person's legs to operate the vehicle; and

(2) is not standard equipment on that type of vehicle for use by a person who has use of both legs.

SECTION 40.176. Section 504.202(b), Transportation Code, is amended to read as follows:

(b) A veteran of the United States armed forces is entitled to register, for the person's own use, two motor vehicles under this section if:

(1) the person has suffered, as a result of military service:

(A) at least a 50 percent service-connected disability; or

(B) a 40 percent service-connected disability because of the amputation of a lower extremity;

(2) the person receives compensation from the United States because of the disability; and

(3) the motor vehicle:

(A) is owned by the person; and

(B) has a gross vehicle weight [~~manufacturer's rated carrying capacity~~] of 18,000 pounds [~~two tons~~] or less.

SECTION 40.177. Section 504.203(b), Transportation Code, is amended to read as follows:

(b) An application for license plates under this section must be accompanied by a written statement acknowledged [~~signed~~] by the administrator or manager of the institution, facility, or retirement community certifying that the institution, facility, or retirement community regularly transports, as a part of the services that the institution, facility, or retirement community provides, one or more eligible persons who reside in the institution, facility, or retirement community. The department shall determine the eligibility of the institution, facility, or retirement community on the evidence the applicant provides.

SECTION 40.178. Section 504.3011, Transportation Code, is amended to read as follows:

Sec. 504.3011. DESIGN OF CERTAIN LICENSE PLATES FOR THE MILITARY. [~~(a) License plates issued under Section 504.303 must at a minimum bear a color depiction of the emblem of the appropriate~~

~~branch of the United States armed forces.~~

[~~(b) License plates issued under Section 504.308(a) or 504.315(e), (f), or (g) must at a minimum bear a color depiction of the appropriate medal.~~

[~~(c)~~] The department shall design military license plates that bear a color depiction of the emblem of the appropriate branch of the United States armed forces or a color depiction of the appropriate medal as provided by the United States Department of Defense [~~to which this section applies in consultation with veterans organizations~~].

SECTION 40.179. Section 504.315(d), Transportation Code, is amended to read as follows:

(d) The department shall issue specialty license plates for survivors of the attack on Pearl Harbor on December 7, 1941. The license plates must include the words "Pearl Harbor Survivor" [~~and must be consecutively numbered~~]. A person is eligible if the person:

(1) served in the United States armed forces;

(2) was stationed in the Hawaiian Islands on December 7, 1941; and

(3) survived the attack on Pearl Harbor on December 7, 1941.

SECTION 40.180. Subchapter E, Chapter 504, Transportation Code, is amended by adding Section 504.400 to read as follows:

Sec. 504.400. FEES FOR CERTAIN RESTRICTED PLATES. The department shall issue, without charge, not more than three sets of specialty license plates under this subchapter.

SECTION 40.181. Section 504.401(a), Transportation Code, is amended to read as follows:

(a) The department shall issue [~~without charge~~] specialty license plates that include the words "State Official" to a state official. [~~The license plates must include the words "State Official."~~]

SECTION 40.182. Section 504.402(a), Transportation Code, is amended to read as follows:

(a) The department shall issue [~~without charge~~] specialty license plates to [~~for~~] members of congress, which [~~. License plates issued under this section~~] must include the words "U.S. Congress."

SECTION 40.183. Section 504.403(a), Transportation Code, is amended to read as follows:

(a) The department shall issue [~~without charge~~] specialty license plates for a current or visiting state or federal judge. The license plates must include the words "State Judge" or "U.S. Judge," as appropriate.

SECTION 40.184. Section 504.403(d)(2), Transportation Code, is amended to read as follows:

(2) "State judge" means:

(A) a justice of the supreme court;

(B) a judge of the court of criminal appeals;

(C) a judge of a court of appeals of this state;

(D) a district court judge;

(E) a presiding judge of an administrative judicial district; or

(F) a statutory county court judge.

SECTION 40.185. Section 504.404, Transportation Code, is amended to read as follows:

Sec. 504.404. FEDERAL ADMINISTRATIVE LAW JUDGES. [~~(a)~~] The department shall issue [~~without charge~~] specialty license plates to [~~for~~] current federal administrative law judges that [~~. The license plates shall~~] bear the words "U.S. A. L. Judge."

[~~(b) A person may be issued three sets of license plates under this section.~~]

SECTION 40.186. Section 504.405(a), Transportation Code, is amended to read as follows:

(a) The department shall issue [~~without charge~~] specialty license plates for current county judges of this state that[~~. The license plates shall~~] bear the words "County Judge."

SECTION 40.187. Section 504.406, Transportation Code, is amended to read as follows:

Sec. 504.406. TEXAS CONSTABLES. The department shall issue [~~without charge~~] specialty license plates for Texas constables that[~~. The license plates shall~~] bear the words "Texas Constable."

SECTION 40.188. Section 504.412, Transportation Code, is renumbered as Section 504.4061, Transportation Code, and is amended to read as follows:

Sec. 504.4061 [~~504.412~~]. FOREIGN ORGANIZATION VEHICLES. [~~(a)~~] The department shall issue specialty license plates for an instrumentality established by a foreign government recognized by the United States before January 1, 1979, that is without official

representation or diplomatic relations with the United States. The license plates must include the words "Foreign Organization" [~~and shall remain valid for five years.~~

[~~(b) A person entitled to specialty license plates under this section may register the vehicle without payment of any fee paid for or at the time of registration~~].

SECTION 40.189. Section 504.509, Transportation Code, is transferred to Subchapter E, Chapter 504, Transportation Code, and renumbered as Section 504.414, Transportation Code, to read as follows:

Sec. 504.414 [~~504.509~~]. VEHICLES CARRYING MOBILE AMATEUR RADIO EQUIPMENT. (a) The department shall issue specialty license plates for a person who holds an amateur radio station license issued by the Federal Communications Commission and who operates receiving and transmitting mobile amateur radio equipment. The license plates shall include the person's amateur call letters as assigned by the Federal Communications Commission. A person may register more than one vehicle equipped with mobile amateur radio equipment under this section, and the department shall issue license plates that include the same amateur call letters for each vehicle.

(b) The fee for issuance of the license plates is $2 for the first year and $1 for each subsequent year.

SECTION 40.190. The heading to Subchapter F, Chapter 504, Transportation Code, is amended to read as follows:

SUBCHAPTER F. SPECIALTY LICENSE PLATES WITH RESTRICTED DISTRIBUTION AND REGULAR LICENSE PLATE FEES [~~FOR CERTAIN VEHICLES~~]

SECTION 40.191. The heading to Section 504.501, Transportation Code, is amended to read as follows:

Sec. 504.501. CLASSIC MOTOR VEHICLES AND TRAVEL TRAILERS.

SECTION 40.192. Section 504.501(a), Transportation Code, is amended to read as follows:

(a) The department shall issue specialty license plates for a motor vehicle that is at least 25 years old. The license plates must include the word "Classic" [~~words "Classic Auto," "Classic Motorcycle," or "Classic Truck"~~] or a similar designation, as appropriate.

SECTION 40.193. The heading to Section 504.502, Transportation Code, is amended to read as follows:

Sec. 504.502. ANTIQUE [~~CERTAIN EXHIBITION~~] VEHICLES; OFFENSE.

SECTION 40.194. Sections 504.502(b) and (g), Transportation Code, are amended to read as follows:

(b) The license plates must include the words "Antique Vehicle." [~~words "Antique Auto," "Antique Truck," "Antique Motorcycle," or "Military Vehicle," as appropriate.~~]

(g) A person entitled to specialty license plates or to department approval under this section may register the vehicle without payment of any fees paid for or at the time of registration except the fee for the license plate. [~~An owner of a vehicle registered under this subsection who violates this section commits an offense. An offense under this section is a misdemeanor punishable by a fine of not less than $5 or more than $200.~~]

SECTION 40.195. Section 504.503, Transportation Code, is

amended to read as follows:

Sec. 504.503. MUNICIPAL, MOTOR, AND PRIVATE BUSES. [~~(a)~~] The department shall issue without charge specialty license plates for municipal buses, motor buses, and private buses. The license plates must include the words "City Bus," "Motor Bus," or "Private Bus," as appropriate.

[~~(b) In this section, "private bus" means a bus that:~~

[~~(1) is not operated for hire; and~~

[~~(2) is not classified as a municipal bus or a motor bus.~~]

SECTION 40.196. The heading to Section 504.506, Transportation Code, is amended to read as follows:

Sec. 504.506. [~~CERTAIN~~] LOG LOADER VEHICLES.

SECTION 40.197. (a) Section 504.510(d), Transportation Code, is amended to read as follows:

(d) This section applies only to an owner of a golf cart who resides:

(1) on real property that is owned or under the control of the United States Corps of Engineers and is required by that agency to register the owner's golf cart under this chapter; and

(2) in a county that borders another state and has a population of more than 110,000 but less than 140,000 [~~111,000~~].

(b) This section takes effect September 1, 2009.

SECTION 40.198. Sections 504.407, 504.408, 504.409, 504.410, and 504.411, Transportation Code, are transferred to Subchapter F, Chapter 504, Transportation Code, renumbered as Sections 504.511, 504.512, 504.513, 504.514, and 504.515,

Transportation Code, and amended to read as follows:

Sec. 504.511 [~~504.407~~]. PEACE OFFICERS WOUNDED OR KILLED IN LINE OF DUTY. (a) The department shall issue specialty license plates for:

(1) a person wounded in the line of duty as a peace officer; or

(2) a surviving spouse, parent, brother, sister, or adult child, including an adopted child or stepchild, of a person killed in the line of duty as a peace officer.

(b) License plates issued under this section must include the words "To Protect and Serve" above an insignia depicting a yellow rose superimposed over the outline of a badge.

(c) The fee for issuance of the license plates is $20.

(d) In this section, "peace officer" has the meaning assigned by Section 1.07, Penal Code.

Sec. 504.512 [~~504.408~~]. GOLD STAR MOTHER, SPOUSE, OR FAMILY MEMBER. (a) The department shall issue a specialty license plate for the mother, surviving spouse, or immediate family member of a person who died while serving in the United States armed forces. License plates issued under this section must include the words "Gold Star Mother," "Gold Star Spouse," or "Gold Star Family" and a gold star. A person may not be issued more than one set of the license plates at a time.

(a-1) In this section "immediate family member" means the parent, child, or sibling of a person who died while serving in the United States armed forces.

(b) The fee for issuance of the license plates is $10.

Sec. 504.513 [~~504.409~~]. VOLUNTEER FIREFIGHTERS. (a) The department shall issue specialty license plates for volunteer firefighters certified by:

(1) the Texas Commission on Fire Protection; or

(2) the State Firemen's and Fire Marshals' Association of Texas.

(b) The fee for issuance of the license plates is $4.

(c) A person may be issued only one set of the license plates.

Sec. 504.514 [~~504.410~~]. EMERGENCY MEDICAL SERVICES PERSONNEL. (a) The department shall issue specialty license plates for emergency medical services personnel certified by the [~~Texas~~] Department of State Health Services under Subchapter C, Chapter 773, Health and Safety Code.

(b) The fee for issuance of the license plates is $8.

(c) A person may be issued only one set of the license plates.

Sec. 504.515 [~~504.411~~]. HONORARY CONSULS. (a) The department shall issue specialty license plates for a person who is an honorary consul authorized by the United States to perform consular duties. License plates issued under this section must include the words "Honorary Consul."

(b) The fee for issuance of the license plates is $40.

SECTION 40.199. Subchapter F, Chapter 504, Transportation Code, is amended by adding Section 504.516 to read as follows:

Sec. 504.516. RENTAL TRAILER OR TRAVEL TRAILER FEE: TRAILER OR SEMITRAILER. (a) The department may issue specially

designed license plates for rental trailers and travel trailers that include, as appropriate, the words "rental trailer" or "travel trailer."

(b) In this section:

(1) "Rental fleet" means vehicles that are designated in the manner prescribed by the department as a rental fleet.

(2) "Rental trailer" means a utility trailer.

(3) "Travel trailer" has the meaning assigned by Section 501.002.

SECTION 40.200. Section 504.614(a), Transportation Code, is amended to read as follows:

(a) The department may issue specialty license plates that include the name and insignia of a professional sports team located in this state. The department shall design the license plates in consultation with the professional sports team and may enter a trademark license with the professional sports team or its league to implement this section. A license plate may be issued under this section only for a professional sports team that:

(1) certifies to the department that the requirements of Section 504.702 are met [~~it has determined that at least 3,500 persons will apply for the plates~~]; and

(2) plays its home games in a facility constructed or operated, in whole or in part, with public funds.

SECTION 40.201. Section 504.615(a), Transportation Code, is amended to read as follows:

(a) The department shall issue specialty license plates that include the name and insignia of a college. The department

shall design the license plates in consultation with the applicable college. The department may issue a license plate under this section only for a college that certifies to the department that the requirements of Section 504.702 are met [~~it has determined that at least 1,500 persons will apply for the plates~~].

SECTION 40.202. Section 504.616(a), Transportation Code, is amended to read as follows:

(a) The department shall issue specialty license plates including the words "Texas Reads" that [~~"Texas Reads." The department shall design the license plates to~~] incorporate one or more submissions from middle school students in a competition conducted by the department.

SECTION 40.203. Section 504.647(a), Transportation Code, is amended to read as follows:

(a) The department shall issue Fight Terrorism specialty license plates that [~~. The license plates shall~~] include a pentagon-shaped border surrounding:

(1) the date "9-11-01" with the likeness of the World Trade Center towers forming the "11";

(2) the likeness of the United States flag; and

(3) the words "Fight Terrorism."

SECTION 40.204. Section 504.413, Transportation Code, is transferred to Subchapter G, Chapter 504, Transportation Code, and renumbered as Section 504.659, Transportation Code, to read as follows:

Sec. 504.659 [~~504.413~~]. MEMBERS OF AMERICAN LEGION. (a) The department shall issue specialty license plates for members of

the American Legion. The license plates shall include the words "Still Serving America" and the emblem of the American Legion. The department shall design the license plates in consultation with the American Legion.

(b) The fee for the license plates is $30.

(c) After deduction of $8 to reimburse the department for its administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the American Legion, Department of Texas account in the state treasury. Money in the account may be used only by the Texas Veterans Commission in making grants to the American Legion Endowment Fund for scholarships and youth programs sponsored by the American Legion, Department of Texas.

SECTION 40.205. Section 504.702, Transportation Code, is amended by amending Subsection (b) and adding Subsections (e) and (f) to read as follows:

(b) The department may manufacture the specialty license plates only if a request for manufacture of the license plates is filed with the department. The request must be:

(1) made in [~~on~~] a manner prescribed [~~form adopted~~] by the department;

(2) filed before the fifth anniversary of the effective date of the law that authorizes the issuance of the specialty license plates; and

(3) accompanied by[~~:~~

[~~(A)~~] a deposit of $8,000[~~; or~~

[~~(B) applications for issuance of at least 1,900~~

~~sets of the license plates plus the fees for issuance of that number of sets~~].

(e) The department may issue license plates under:

(1) Section 504.614 for a particular professional sports team only if $8,000 has been deposited with the department for that sports team; or

(2) Section 504.615 for a particular institution of higher education or private college or university only if $8,000 has been deposited with the department for that institution, college, or university.

(f) Money deposited with the department under Subsection (b)(3) or (e) shall be returned by the department to the person who made the deposit after 800 sets of plates have been issued.

SECTION 40.206. Sections 504.801(a) and (b), Transportation Code, are amended to read as follows:

(a) The department may create new specialty license plates on its own initiative or on receipt of an application from a potential sponsor. A new specialty license plate created under this section must comply with each requirement of Section 504.702 unless the license is created by the department on its own initiative. The department may permit a specialty license plate created under this section to be personalized. The redesign of an existing specialty license plate at the request of a sponsor shall be treated like the issuance of a new specialty license plate[~~, except that the department may require a lower deposit amount to reflect the actual costs of redesigning the license plate~~].

(b) Any nonprofit entity [~~person~~] may submit an application

to the department to sponsor a new specialty license plate [~~by submitting an application to the department~~]. An application may nominate a state agency to receive funds derived from the issuance of the license plates. The application may also identify uses to which those funds should be appropriated.

SECTION 40.207. Section 504.851, Transportation Code, is amended by amending Subsections (a), (b), (c), (d), (f), (g), and (h) and adding Subsection (n) to read as follows:

(a) The department shall enter into a contract with the private vendor whose proposal is most advantageous to the state, as determined from competitive sealed proposals that satisfy the requirements of this section:

(1) [~~,~~] for the exclusive marketing and sale of souvenir or[~~+~~

[~~(1)~~] personalized license plates authorized by Section 504.101 with the exception that personalized plates issued before September 1, 2009, may be renewed in accordance with the law at that time; or

(2) for the marketing and sale of, with the agreement of the private vendor, other specialty license plates authorized by this subchapter.

(b) Instead of the fees established by Section 504.101(c), the commission by order [~~rule~~] shall establish fees for the issuance or renewal of personalized license or personalized souvenir plates that are marketed and sold by the private vendor. Fees must be reasonable and not less than the greater of:

(1) the amounts necessary to allow the department to

recover all reasonable costs to the department associated with the evaluation of the competitive sealed proposals received by the department and with the implementation and enforcement of the contract, including direct, indirect, and administrative costs; or

(2) the amount established by Section 504.101(c).

(c) The commission by order [~~rule~~] shall establish standard [~~the~~] fees for the issuance or renewal of souvenir license plates, specialty license plates, or souvenir or specialty license plates that are personalized that are marketed and sold by the private vendor. Fees must be reasonable and not less than the amounts necessary to allow the department to recover all reasonable costs to the department associated with the evaluation of the competitive sealed proposals received by the department and with the implementation and enforcement of the contract, including direct, indirect, and administrative costs. A fee established under this subsection is in addition to:

(1) the registration fee and any optional registration fee prescribed by this chapter for the vehicle for which specialty license plates are issued;

(2) any additional fee prescribed by this subchapter for the issuance of specialty license plates for that vehicle; and

(3) any additional fee prescribed by this subchapter for the issuance of personalized license plates for that vehicle.

(d) Specialty license or specialty personalized plates may be sold for varying periods, including a permanent sale that may be made through auction. [~~At any time as necessary to comply with Subsection (b) or (c), the commission may increase or decrease the~~

~~amount of a fee established under the applicable subsection.~~]

(f) The department may approve new design and color combinations for specialty or personalized license plates that are marketed and sold by a private vendor under a contract entered into with the private vendor. Each approved license plate design and color combination remains the property of the department.

(g) [~~The department may approve new design and color combinations for specialty license plates authorized by this chapter, including specialty license plates that may be personalized, that are marketed and sold by a private vendor under a contract entered into with the private vendor. Each approved license plate design and color combination remains the property of the department.~~] Except as otherwise provided by this chapter, this subsection does not authorize a[~~+~~

[~~(1) the department to approve a design or color combination for a specialty license plate that is inconsistent with the design or color combination specified for the license plate by the section of this chapter that authorizes the issuance of the specialty license plate; or~~

[~~(2) the~~] private vendor to market and sell a specialty license plate with a design or color combination that is issued as a license plate designed for a nonprofit organization [~~inconsistent with the design or color combination specified by that section~~].

(h) Subject to the limitations provided by Subsection [~~Subsections (g) and~~] (g-1), the department may cancel a license plate or require the discontinuation of a license plate design or

color combination that is marketed and sold by a private vendor under contract at any time if the department determines that the cancellation or discontinuation is in the best interest of this state or the motoring public.

(n) If the vendor ceases operation, the program may be operated temporarily by the department until another vendor is selected and commences operation.

SECTION 40.208. Chapter 504, Transportation Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. TRANSFER AND REMOVAL OF LICENSE PLATES

SECTION 40.209. Section 502.451, Transportation Code, is transferred to Subchapter K, Chapter 504, Transportation Code, as added by this Act, renumbered as Section 504.901, Transportation Code, and amended to read as follows:

Sec. 504.901 [~~502.451~~]. TRANSFER [~~OF VEHICLE REGISTRATION~~] AND REMOVAL OF LICENSE PLATES. (a) On the sale or transfer of a motor vehicle [~~to a dealer, as defined by Section 503.001, who holds a general distinguishing number issued under Chapter 503, the dealer shall remove~~] each license plate [~~and the registration insignia~~] issued for the motor vehicle shall be removed.

[~~(a-1) On a sale or transfer of a motor vehicle to a person that does not hold a general distinguishing number issued under Chapter 503, the seller or transferor may remove each license plate and the registration insignia issued for the motor vehicle.~~]

(b) A license plate removed from a motor vehicle under Subsection (a) [~~or (a-1)~~] must be:

(1) transferred to another motor vehicle that is titled in the seller's name [~~disposed of in the manner specified by the department~~]; or

(2) transferred to a [~~another~~] vehicle that is purchased [~~owned~~] by the seller [~~or transferor as provided by Section 502.452~~].

(c) To be eligible for transfer, license plates must be appropriate for the class of vehicle to which the plates are being transferred. If the vehicle is a different classification the owner must:

(1) pay the applicable title and vehicle registration fees;

(2) obtain a new registration insignia; and

(3) dispose of the license plates in the manner specified by the department, or if the applicant fails to remove and transfer the license plates, purchase replacement license plates in accordance with this chapter. [~~The part of the registration period remaining at the time of the sale or transfer shall continue with the vehicle being sold or transferred and does not transfer with the license plates or registration validation insignia. To continue the remainder of the registration period, the purchaser or transferee must file the documents required under Section 520.031.~~]

SECTION 40.210. Chapter 504, Transportation Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. OFFENSES AND PENALTIES

Sec. 504.941. ANTIQUE VEHICLES; OFFENSE. (a) A person who violates Section 504.502 commits an offense. An offense under this

section is a misdemeanor punishable by a fine of not less than $5 or more than $200.

(b) It is an affirmative defense to prosecution under this section that at the time of the offense the vehicle was en route to or from a location for the purpose of routine maintenance of the vehicle.

Sec. 504.942. LOG LOADER VEHICLES; PENALTIES. A vehicle operated in violation of Section 504.506 is considered to be operated or moved while unregistered and is immediately subject to the applicable fees and penalties prescribed by this chapter.

Sec. 504.943. OPERATION OF VEHICLE WITHOUT LICENSE PLATE. (a) A person commits an offense if the person operates on a public highway during a registration period:

(1) a passenger car, as defined by Section 541.201, or commercial motor vehicle that does not display two license plates issued by the department and attached to the front and rear of the vehicle; or

(2) a road tractor, motorcycle, trailer, or semitrailer that does not display a license plate assigned by the department and attached to the rear of the vehicle.

(b) Subsection (a) does not apply to a person who holds a general distinguishing number operating a vehicle as provided by law.

(c) An offense under this section is a misdemeanor punishable by a fine not to exceed $200.

(d) A court may dismiss a charge brought under Subsection (a) if the defendant:

(1) remedies the defect before the defendant's first court appearance; and

(2) pays an administrative fee not to exceed $10.

SECTION 40.211. Section 502.408, Transportation Code, is transferred to Subchapter L, Chapter 504, Transportation Code, as added by this Act, renumbered as Section 504.944, Transportation Code, and amended to read as follows:

Sec. 504.944 [~~502.408~~]. OPERATION OF VEHICLE WITH WRONG LICENSE PLATE. [~~(a)~~] A person commits an offense if the person operates, or as the owner permits another to operate, on a public highway a motor vehicle that has attached to it a number plate or registration insignia issued for a different vehicle. An offense under this subsection is a misdemeanor punishable by a fine not to exceed $200.

SECTION 40.212. Subchapter L, Chapter 504, Transportation Code, as added by this Act, is amended by adding Section 504.945 to read as follows:

Sec. 504.945. WRONG, FICTITIOUS, ALTERED, OR OBSCURED LICENSE PLATE. (a) A person commits an offense if the person attaches to or displays on a motor vehicle a license plate that:

(1) is issued for a different motor vehicle;

(2) is issued for the vehicle under any other motor vehicle law other than by the department;

(3) is assigned for a registration period other than the registration period in effect;

(4) is fictitious;

(5) has blurring or reflective matter that

significantly impairs the readability of the name of the state in which the vehicle is registered or the letters or numbers of the license plate number at any time;

(6) has an attached illuminated device or sticker, decal, emblem, or other insignia that is not authorized by law and that interferes with the readability of the letters or numbers of the license plate number or the name of the state in which the vehicle is registered; or

(7) has a coating, covering, protective substance, or other material that:

(A) distorts angular visibility or detectability;

(B) alters or obscures one-half or more of the name of the state in which the vehicle is registered; or

(C) alters or obscures the letters or numbers of the license plate number or the color of the plate.

(b) Except as provided by Subsection (e), an offense under Subsection (a) is a misdemeanor punishable by a fine of not more than $200, unless it is shown at the trial of the offense that the owner knowingly altered or made illegible the letters, numbers, and other identification marks, in which case the offense is a Class B misdemeanor.

(c) Subsection (a)(7) may not be construed to apply to:

(1) a trailer hitch installed on a vehicle in a normal or customary manner;

(2) a transponder, as defined by Section 228.057, that is attached to a vehicle in the manner required by the issuing

authority;

(3) a wheelchair lift or wheelchair carrier that is attached to a vehicle in a normal or customary manner;

(4) a trailer being towed by a vehicle; or

(5) a bicycle or motorcycle rack that is attached to a vehicle in a normal or customary manner.

(d) A court may dismiss a charge brought under Subsection (a)(3), (5), (6), or (7) if the defendant:

(1) remedies the defect before the defendant's first court appearance; and

(2) pays an administrative fee not to exceed $10.

(e) An offense under Subsection (a)(4) is a Class B misdemeanor.

SECTION 40.213. Subchapter A, Chapter 520, Transportation Code, is amended by adding Sections 520.003 and 520.004 to read as follows:

Sec. 520.003. RULES. The department may adopt rules to administer this chapter.

Sec. 520.004. DEPARTMENT RESPONSIBILITIES. The department has jurisdiction over the registration and titling of, and the issuance of license plates to, motor vehicles in compliance with the applicable statutes. The department:

(1) shall provide services that are reasonable, adequate, and efficient;

(2) shall establish standards for service quality; and

(3) may enter into an agreement with a person involved in transaction processing, including a lienholder or an electronic

verification service, only to facilitate the processing of electronic title benefits so as to benefit this state and minimize inconveniences to the general public.

SECTION 40.214. Section 501.137, Transportation Code, is transferred to Subchapter A, Chapter 520, Transportation Code, renumbered as Section 520.005, Transportation Code, and amended to read as follows:

Sec. 520.005 [~~501.137~~]. DUTY OF COUNTY ASSESSOR-COLLECTOR. (a) Each county assessor-collector shall comply with Chapter 501 [~~this chapter~~].

(b) An assessor-collector who fails or refuses to comply with Chapter 501 [~~this chapter~~] is liable on the assessor-collector's official bond for resulting damages suffered by any person.

SECTION 40.215. Section 502.109, Transportation Code, is transferred to Subchapter A, Chapter 520, Transportation Code, renumbered as Section 520.006, Transportation Code, and amended to read as follows:

Sec. 520.006 [~~502.109~~]. COMPENSATION OF ASSESSOR-COLLECTOR. (a) A county assessor-collector shall receive a fee of $1.90 for each receipt issued under Chapter 502 [~~this chapter. If the assessor-collector may be compensated by fees, a fee received is compensation for services under this chapter. The assessor-collector shall deduct the fee weekly from the gross collections made under this chapter~~].

(b) A county assessor-collector who is compensated under this section shall pay the entire expense of issuing registration

receipts and license plates under Chapter 501 or 502 [~~this chapter~~] from the compensation allowed under this section.

SECTION 40.216. Section 502.111, Transportation Code, is transferred to Subchapter A, Chapter 520, Transportation Code, renumbered as Section 520.007, Transportation Code, and amended to read as follows:

Sec. 520.007 [~~502.111~~]. COUNTY BRANCH OFFICES. (a) The commissioners court of a county may authorize the county assessor-collector to:

(1) establish a suboffice or branch office for vehicle registration at one or more locations in the county other than the county courthouse; or

(2) appoint a deputy to register vehicles in the same manner and with the same authority as though done in the office of the assessor-collector.

(b) The report of vehicles registered through a suboffice or branch office shall be made through the office of the county assessor-collector.

SECTION 40.217. Section 502.114, Transportation Code, is transferred to Subchapter A, Chapter 520, Transportation Code, renumbered as Section 520.008, Transportation Code, and amended to read as follows:

Sec. 520.008 [~~502.114~~]. FULL-SERVICE DEPUTIES. (a) A full-service deputy appointed under Section 520.0091 [~~502.112~~] shall accept any application for registration, registration renewal, or title transfer that the county assessor-collector may accept.

(b) A full-service deputy may charge and retain an additional motor vehicle registration fee not to exceed $5 for each motor vehicle registration issued.

(c) A county assessor-collector may delegate to a full-service deputy, in the manner selected by the assessor-collector, the authority to use data processing equipment and software provided by the department for use in the titling and registration of motor vehicles. The department may not limit a county assessor-collector's ability to delegate the assessor-collector's functions regarding the titling and registration of motor vehicles to a qualified full-service deputy in the manner the assessor-collector considers appropriate.

SECTION 40.218. Section 502.113, Transportation Code, is transferred to Subchapter A, Chapter 520, Transportation Code, renumbered as Section 520.009, Transportation Code, and amended to read as follows:

Sec. 520.009 [~~502.113~~]. LIMITED-SERVICE DEPUTIES. (a) A limited-service deputy appointed under Section 520.0091 [~~502.112~~] may only accept registration renewal cards provided by the department and may not prepare or accept an application for title transfer.

(b) The county assessor-collector may pay a limited-service deputy an amount not to exceed the fee the assessor-collector could collect under Section 520.006(a) [~~502.109(a)~~] for each registration receipt issued. The commissioners court of the county may permit a limited-service deputy to charge and retain an additional fee not to exceed $1 for each registration receipt

issued.

SECTION 40.219. Section 502.112, Transportation Code, is transferred to Subchapter A, Chapter 520, Transportation Code, and renumbered as Section 520.0091, Transportation Code, to read as follows:

Sec. 520.0091 [~~502.112~~]. DEPUTY ASSESSOR-COLLECTORS. (a) A county assessor-collector, with the approval of the commissioners court of the county, may deputize an individual or business entity to:

(1) issue motor vehicle registration receipts as a limited-service deputy; or

(2) issue motor vehicle registration receipts and prepare or accept applications for title transfers as a full-service deputy.

(b) An individual or business entity is eligible to be deputized as a limited-service deputy if the person:

(1) is trained to issue registration receipts by the county assessor-collector; and

(2) posts a bond payable to the county assessor-collector:

(A) in an amount determined by the assessor-collector; and

(B) conditioned on the person's proper accounting and remittance of all fees the person collects.

(c) An individual or business entity is eligible to be deputized as a full-service deputy if the person:

(1) meets the requirements of Subsection (b); and

(2) has experience in title transfers.

(d) A person deputized under this section shall keep a separate account of the fees collected and a record of daily receipts.

SECTION 40.220. Section 501.136, Transportation Code, is transferred to Subchapter A, Chapter 520, Transportation Code, renumbered as Section 520.0092, Transportation Code, and amended to read as follows:

Sec. 520.0092 [~~501.136~~]. ACTS BY DEPUTY COUNTY ASSESSOR-COLLECTOR. A deputy county assessor-collector, other than a limited service deputy appointed under Section 520.0091 [~~502.112~~], may perform the duties of an assessor-collector under Chapter 501 [~~this chapter~~].

SECTION 40.221. Section 520.002, Transportation Code, is renumbered as Section 520.0093, Transportation Code, and amended to read as follows:

Sec. 520.0093 [~~520.002~~]. LEASE OF ADDITIONAL COMPUTER EQUIPMENT. (a) This section applies only to the lease of equipment [~~to a county~~] for the operation of the automated registration and titling [~~title~~] system in addition to the equipment provided by the department at no cost to the county under a formula prescribed by the department.

(b) On the request of the tax assessor-collector of a county, the department may enter into an agreement with the commissioners court of that county under which the department leases additional equipment to the county for the use of the tax assessor-collector in operating the automated registration and

titling [~~title~~] system in that county.

(c) A county may install equipment leased under this section at offices of the county or of an agent of the county.

(d) Equipment leased under this section:

(1) remains the property of the department; and

(2) must be used primarily for the automated registration and titling [~~title~~] system.

(e) Under the agreement, the department shall charge [~~the county~~] an amount not less than the amount of the cost to the department to provide the additional equipment and any related services under the lease. All money collected under the lease shall be deposited to the credit of the state highway fund.

SECTION 40.222. The heading to Subchapter B, Chapter 520, Transportation Code, is amended to read as follows:

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS [~~MOTOR NUMBER RECORD REQUIREMENTS~~]

SECTION 40.223. Subchapter B, Chapter 520, Transportation Code, is amended by adding Sections 520.015 and 520.016 to read as follows:

Sec. 520.015. REGISTRATION AND INSPECTION CONSOLIDATION STUDY. (a) In consultation with the Texas Commission on Environmental Quality, the department and the Department of Public Safety shall conduct a joint study on the feasibility of consolidation of the state's motor vehicle registration and compulsory inspection procedures in a manner that will allow completion of annual registration and compulsory inspection requirements as part of a single process. The study must address

recommendations for:

(1) consolidating shared records and information;

(2) the manner in which registration and inspection fees collected will be distributed;

(3) oversight regarding implementation of the consolidated procedures;

(4) transition from the current separate procedures to the consolidated procedures; and

(5) other related issues the departments consider appropriate.

(b) The departments shall share the cost of the study in equal amounts.

Sec. 520.016. MERGER OR CONSOLIDATION OF SHARED INFORMATION STUDY. (a) In consultation with the Texas Commission on Environmental Quality, the department and the Department of Public Safety shall conduct a joint study on the merger or consolidation of similar information that is collected separately by each agency. The study should include the feasibility of establishing a database interface software system that:

(1) sufficiently protects the privacy of the public;

(2) sufficiently protects the security and integrity of information provided;

(3) increases public convenience;

(4) is cost-effective; and

(5) improves the coordination of regulatory resources.

(b) The implementing agencies may facilitate the

implementation of the merger or consolidation, assist in the development of rules, and coordinate a testing phase.

SECTION 40.224. Section 520.036, Transportation Code, is transferred to Subchapter B, Chapter 520, Transportation Code, and renumbered as Section 520.017, Transportation Code, to read as follows:

Sec. 520.017 [~~520.036~~]. GENERAL PENALTY. (a) A person commits an offense if the person violates this subchapter in a manner for which a specific penalty is not provided.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $50 and not more than $200.

SECTION 40.225. Section 520.051(5), Transportation Code, is amended to read as follows:

(5) "Title service record" means the written or electronic record for each transaction in which a motor vehicle title service receives compensation.

SECTION 40.226. Section 681.003(b), Transportation Code, is amended to read as follows:

(b) An application for a disabled parking placard must be:

(1) on a form furnished by the department;

(2) submitted to the county assessor-collector of the county in which the person with the disability resides; and

(3) accompanied by a fee of $5 if the application is for a temporary placard.

SECTION 40.227. Section 386.251(c), Health and Safety Code, is amended to read as follows:

(c) The fund consists of:

(1) the amount of money deposited to the credit of the fund under:

(A) Section 386.056;

(B) Sections 151.0515 and 152.0215, Tax Code; and

(C) Sections 501.138, 502.358 [~~502.1675~~], and 548.5055, Transportation Code; and

(2) grant money recaptured under Section 386.111(d).

SECTION 40.228. The following provisions of the Transportation Code are repealed:

(1) Sections 501.026 and 501.075;

(2) Section 501.091(4);

(3) Sections 501.094, 501.099, and 501.133;

(4) Sections 501.134(e) and (f);

(5) Sections 502.007, 502.0074, 502.0075, 502.008, 502.104, 502.105, 502.1535, 502.154, 502.1585, 502.168, 502.175, 502.177, 502.187, 502.206, 502.271, 502.2862, 502.2971, 502.403, and 502.405;

(6) Section 502.407(c);

(7) Section 502.412(c);

(8) Sections 502.452, 502.453, and 502.455;

(9) Section 504.401(b);

(10) Section 504.402(b);

(11) Section 504.403(b);

(12) Section 504.405(b);

(13) Section 504.5011;

(14) Section 504.502(j);

(15) Section 504.506(f);

(16) Section 504.507(c);

(17) Section 504.508(d);

(18) Sections 504.620, 504.624, 504.629, 504.634, 504.643, 504.649, 504.650, 504.653, 504.655, and 504.701;

(19) Section 504.702(c);

(20) Section 504.801(h);

(21) Sections 504.851(e) and (k); and

(22) Sections 520.013 and 520.034.

SECTION 40.229. (a) The change in law made by this article applies only to an offense committed on or after January 1, 2013.

(b) An offense committed before January 1, 2013, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before January 1, 2013, if any element of the offense was committed before that date.

SECTION 40.230. (a) Except as otherwise provided by this article, this article takes effect January 1, 2013.

(b) This section, Section 40.029 of this article, amending Section 501.053, Transportation Code, and Section 40.207 of this article, amending Section 504.851, Transportation Code, take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this section and Section 40.207 of this article take effect September 1, 2009.

ARTICLE 41. MOBILITY IMPROVEMENTS

SECTION 41.01. Title 5, Transportation Code, is amended by

adding Chapter 92 to read as follows:

CHAPTER 92. RAIL DIVISION; URBAN PASSENGER RAIL

Sec. 92.001. STATEWIDE PASSENGER RAIL SYSTEM; URBAN PASSENGER RAIL DEMONSTRATION PROGRAM. (a) To facilitate the development and interconnectivity of rail systems in this state, the department shall coordinate activities regarding the planning, construction, operation, and maintenance of a statewide passenger rail system and an urban passenger rail system. The department shall coordinate with other entities involved with passenger rail systems, including governmental entities, private entities, and nonprofit corporations.

(b) Using the procedures described in this chapter, the department shall, by January 1, 2010, select at least one metropolitan planning organization to design, construct, and implement an urban passenger rail demonstration project and other mobility improvement projects as described by Chapter 180. The department may not designate more than five demonstration programs in a year.

(c) The department shall advise the legislature in an annual report about the appropriateness of designating additional urban rail demonstration programs.

Sec. 92.002. LONG-TERM PLAN FOR PASSENGER RAIL SYSTEMS. (a) The department shall prepare and update annually a long-term plan for a statewide passenger rail system and urban passenger rail demonstration programs.

(b) The department shall annually submit, by December 31 each year, a report regarding the long-term plan and the

demonstration programs to:

(1) the governor;

(2) the lieutenant governor;

(3) the speaker of the house of representatives; and

(4) the standing committee of each house of the legislature that has primary jurisdiction over rail transportation issues.

(c) Information contained in the report must include:

(1) a description of existing and proposed passenger rail systems;

(2) information regarding the status of passenger rail systems under construction and the methods of finance used to construct and operate the systems;

(3) an analysis of potential interconnectivity difficulties; and

(4) current ridership numbers and future projections for passenger rail projects.

Sec. 92.003. DEMONSTRATION PROGRAMS; REQUIREMENTS. (a) Any passenger rail system selected for the demonstration program and developed under this chapter must:

(1) enhance connectivity to airports;

(2) enhance connectivity to major employment centers; and

(3) service major metropolitan urban regions in this state which contain at least one county over 300,000 in population.

Sec. 92.004. APPLICATION. (a) By October 1, 2009, a metropolitan planning organization which contains a county with

over 300,000 in population may submit an application to the department to be considered an urban passenger rail demonstration project.

(b) An application must include:

(1) resolutions of support from at least one county commissioners court located in the metropolitan planning organization;

(2) a map and description of the region's proposed urban passenger rail system, including construction and implementation timelines;

(3) a description of the community benefits the system would provide including the impact of the system on the environment, existing freeway system, and the workforce population;

(4) a financial plan for the construction and ongoing maintenance and operation of the system using the methods of finance authorized under Chapter 180; and

(5) a description of the operations and management of the system.

(c) The commission may not consider an incomplete application or an application from a metropolitan planning organization that does not service at least one county over 300,000 in population. For the purposes of this section, population is based on the most recent estimate published by the council of governments of the region.

(d) By January 1, 2009, the department shall designate at least one but not more than five metropolitan planning

organizations as an urban passenger rail demonstration project. The department shall conduct at least two public hearings to consider the applications received.

(e) The department shall base the selection of an urban passenger rail demonstration project on:

(1) the completeness and thoroughness of the application;

(2) demonstration of support for the project and application from the community as shown through testimony and written correspondence;

(3) demonstration of support for the project as shown from the private sector and large employers;

(4) demonstration of support for the application and project from units of local government located in and near the applicant as shown in resolutions of support and testimony; and

(5) demonstration of support for the application and project from members of the legislature and congress as shown in written correspondence and testimony.

Sec. 92.005. POWERS AND DUTIES. (a) The legislature authorizes any county located within a metropolitan planning organization selected by the department as an urban passenger rail demonstration project under this chapter with the specific powers and duties prescribed by Chapter 180, Transportation Code.

(b) Any county selected by the department as an urban passenger rail demonstration project has the powers described in Chapter 180.

Sec. 92.006. RULES. (a) The department may adopt rules, no

later than September 1, 2009, to implement the provisions of this chapter.

(b) The department shall, by September 1, 2009, develop a standard application form.

SECTION 41.02. Title 5, Transportation Code, is amended by adding Chapter 180 to read as follows:

CHAPTER 180. URBAN PASSENGER RAIL DEMONSTRATION PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 180.001. SHORT TITLE. This chapter may be cited as the Urban Passenger Rail Demonstration Program.

Sec. 180.002. DEFINITIONS. In this chapter:

(1) "Dealer," "diesel fuel," "gasoline," "motor fuel," "motor vehicle," "public highway," and "sale" have the meanings assigned by Section 162.001, Tax Code.

(2) "Department" means the Texas Department of Transportation.

(3) "Intermodal hub" and "transit system" have the meanings assigned by Section 370.003, Transportation Code.

(4) "Metropolitan planning organization" has the meaning assigned by Section 472.031, Transportation Code.

(5) "Mobility improvement project" means a capital improvement or set of related capital improvements in a geographic area, including maintenance and operation of the improvements, designed to relieve traffic congestion, increase mobility and the movement of traffic or individuals, expand transportation capacity, promote traffic or pedestrian safety, or improve air quality. The term includes passenger rail systems and related

infrastructure; freight rail systems; transit systems; intermodal hubs; pedestrian facilities; streets, roadways, highways, and additional roadway or highway lanes, such as turning lanes and managed or high occupancy vehicle lanes; and bridges, tunnels, interchanges, overpasses, underpasses, service roads, ramps, entrance plazas, parking areas or structures, and traffic signal systems.

(6) "Transit authority" or "transportation authority" means an authority operating under Chapter 370, 451, 452, or 460, Transportation Code.

(7) "Urban passenger rail demonstration program" means the program operated by the Texas Department of Transportation as described in Chapter 92, Transportation Code.

Sec. 180.0025. APPLICABILITY. The provisions of this chapter only apply to a county located within the boundaries of a metropolitan planning organization selected by the department as an urban passenger rail demonstration program under Chapter 92.

Sec. 180.003. REDUCTION PROHIBITED. (a) A county, municipality, or metropolitan planning organization may not be penalized with a reduction in state or federal transportation funding, including funding from the state highway fund, the Texas mobility fund, the Texas highway beautification fund, general obligation bonds, or any other method of state or federal transportation financing, because of being selected as an urban passenger rail demonstration program as authorized in Chapter 92.

(b) The department may not reduce any allocation of state or federal transportation funding to a department district because the

district contains a county that imposes a county motor fuels tax under this chapter.

Sec. 180.004. URBAN PASSENGER RAIL DEMONSTRATION PROGRAM. (a) The Legislature grants any county located in a metropolitan planning organization selected by the department as an urban passenger rail demonstration program with the powers, duties, and provision granted by this chapter.

Sec. 180.005. PROHIBITIONS ON USE OF REVENUE. A county located within a metropolitan planning organization selected by the department as an urban passenger rail demonstration program may not use revenue from a method of finance imposed under this chapter:

(1) to acquire, construct, maintain, or otherwise directly fund a toll project;

(2) for an approved mobility improvement project if the revenue is used in order to reallocate other revenue toward a toll project; or

(3) to directly or indirectly hold, promote, or oppose an election under this chapter, including paying for promotional, educational, or advocacy materials.

Sec. 180.008. INTERLOCAL CONTRACTING AUTHORITY. (a) A political subdivision may contract or agree with another political subdivision to perform governmental functions and services in accordance with this chapter.

(b) A party to an interlocal contract may contract with an agency, as that term is defined by Section 771.002, Government Code.

(c) In this section, "interlocal contract" has the meaning

assigned by Section 791.003, Government Code.

[Sections 180.009-180.050 reserved for expansion]

SUBCHAPTER B. ELECTIONS; PROJECT SELECTION; EQUITY

Sec. 180.051. CALLING OF ELECTION. (a) All of the commissioners courts of those counties that are wholly or partly located in the boundaries of the same metropolitan planning organization selected by the department as an urban passenger rail demonstration program under Chapter 92 shall, by order, call an election on the issue of imposing a method of finance under this chapter if, at least 240 days before a uniform election date in November, a resolution or resolutions requesting that an election be called are adopted by the commissioners courts of one or more of those counties that contain at least 66 percent of the total population of those counties.

(b) An election called under this section by the commissioners courts of more than one county in the boundaries of the same metropolitan planning organization must be held on the same date and must be held on a uniform election date in November.

(c) Section 334.025, Local Government Code, applies to an election called under this section.

Sec. 180.052. SUBSEQUENT ELECTIONS. (a) This section applies only to a county in which the majority of voters did not approve the imposition of a method of finance at an election held under Section 180.051.

(b) The commissioners court by order may call a subsequent election to impose a method of finance authorized under this chapter using the procedures described by this subchapter.

(c) The commissioners court of a county may not call a subsequent election under this section before the second anniversary of a previously held election.

Sec. 180.053. REQUIRED BALLOT LANGUAGE. (a) An order under this subchapter calling an election must list and generally describe:

(1) the nature and scope of the proposed mobility improvement projects to be constructed;

(2) the estimated cost and the estimated completion date for the capital construction of each proposed mobility improvement project; and

(3) the method of finance and the rate proposed to finance the mobility improvement project.

(b) The ballot at an election held under this subchapter must be printed as follows: "Authorizing _____ (insert name of county) to construct the following mobility improvement projects:_____ (insert, on four separate lines, a general and brief description of each proposed mobility improvement project, an estimated total cost of each project, the estimated date of expiration of any necessary bonds, and the estimated date the project will be operational to the public). The construction, maintenance, and operation of the project or projects listed above will be funded with a (insert the method of finance and rate). (If applicable, state a separate rate for maintenance and operations). By voting "yes," you authorize the county to begin imposing the (taxes and fees, if applicable) included above. Do you authorize the construction of the mobility improvement projects listed above

and the collection of the taxes (and fees, if applicable) in _____ County?"

(c) The estimated cost of construction of a mobility improvement project listed on a ballot is not a legally binding restriction on the actual and ultimate cost of financing the project.

(d) A ballot may not permit individual mobility improvement projects to be voted on as separate options. All mobility improvement projects included on a ballot must be approved or rejected as a group.

(e) A ballot may not list more projects than the proposed methods of finance can immediately finance.

Sec. 180.054. AUTHORIZED PROJECTS. (a) A county may propose for funding by a method of finance imposed under this chapter:

(1) the construction of a new mobility improvement project and related maintenance and operations;

(2) the expansion, reconstruction, or rehabilitation of an existing mobility improvement project;

(3) improvements in the maintenance and operation of an existing mobility improvement project; or

(4) the retirement of existing debt of a transit agency related to a mobility improvement project.

(b) A county located in a metropolitan planning organization selected by the department as an urban passenger rail demonstration program under Chapter 92 may only use funds collected from a method of finance imposed under this chapter to fund mobility

improvement projects consistent with the transportation plans and programs of the metropolitan planning organization in which the county is wholly or partly located.

(c) On or before the 30th day before the date described in Section 180.051, the metropolitan planning organization in which the county is wholly or partly located shall submit to the county a list of eligible mobility improvement projects with a primary emphasis on passenger rail and major roadway improvements.

(d) On or before the 180th day before an election is held under this subchapter, the commissioners court shall, by order and in consultation with municipalities and transit agencies located or operating in the county, determine in a public hearing which projects from the list submitted under Subsection (c) shall be proposed for funding from a method of finance imposed under this chapter.

Sec. 180.0545. PROJECT SELECTION COMMITTEE FOR CERTAIN COUNTIES. (a) If an election is to be held in a metropolitan planning organization that services multiple counties, at least two of which contain over one million in population, then not later than 30 days later, the county commissioners of each county to which this section applies shall jointly establish with the municipalities in the county a project selection committee no later than 30 days after the election is ordered.

(b) If a county commissioners court to which this section applies fails to establish a project selection committee pursuant to Subsection (a), the governing bodies of two or more cities that contain at least 60 percent of the county's total population may, by

a joint resolution establish a joint project selection committee.

(c) The project selection committee, by supermajority vote of not less than two-thirds of its membership, shall select the specific mobility improvement projects to be placed on the ballot and the methods of finance and adequate rates to financially support those projects. A committee may only select new mobility improvement projects that are consistent with the transportation plan adopted by the metropolitan planning organization. Except as provided in Section 180.055, a committee may select a mobility improvement project located outside the county. A committee may not recommend more projects for placement on the ballot than the methods of finance can immediately support.

(d) A committee must conduct at least two public hearings regarding the proposed mobility improvement projects and use best efforts to meet with all affected parties, including workforce populations and affected neighborhood groups.

(e) The committee shall submit all recommended projects and methods of finance to the commissioners court at least 180 days before an election. The commissioners court may not amend the list of recommended projects or methods of finance.

(f) Except as provided by Subsection (g), the project selection committee is composed of 11 members as follows:

(1) two members who are elected county officials, appointed by the county commissioners court;

(2) one member who is a member of the governing body of a municipality not otherwise entitled to a seat under Subdivision (4) or (5) with a population of 25,000 or less located in the

county, appointed by the county commissioners court;

(3) one member who is a member of the governing body of a municipality not otherwise entitled to a seat under Subdivision (4) or (5) with a population greater than 25,000 but less than 95,000 located in the county, appointed by the county commissioners court;

(4) two members who are elected officials of the most populous municipality located in the county, appointed by the governing body of the municipality;

(5) four members who are elected officials of the next four most populous municipalities located in the county, one each appointed by the governing body of each municipality; and

(6) one member who is a member of the governing board of the transit or transportation authority with the largest service area in the county, appointed by the governing body of the authority.

(g) If the most populous municipality located in the county contains 45 percent or more of the county population, the county's project selection committee is composed of the membership provided by Subsection (f) except that:

(1) the most populous municipality receives three members who are elected officials; and

(2) three members who are elected officials of the next three most populous municipalities located in the county, one each appointed by the governing body of each municipality.

(h) Only the portion of a municipality's population that is located within the county may be used to determine municipal

population for the purposes of this section. For the purposes of this section, municipal population is based on the most recent estimate published by the council of governments of the region.

(i) A committee must elect a chair from among its members and may adopt rules for the conduct of its activities and appoint vacancies.

(j) All meetings of a committee are open meetings. Notice of committee meetings must be provided in accordance with Sections 551.041, 551.0411, 551.042, 551.043, and 551.049, Government Code.

(k) A project selection committee established under this section is abolished, and all the duties of the committee expire, on the date the committee submits recommendations to the commissioners court.

Sec. 180.055. COMMITMENT TO EQUITY. (a) Revenue from a method of finance imposed under this chapter and collected within any municipality having territory located in a transportation authority funded by a dedicated sales tax and governed by a subregional board under Subchapter O, Chapter 452, Transportation Code, shall be maintained in a single segregated account separate from tax revenue collected elsewhere in the county.

(b) Revenue maintained in the account described by Subsection (c) may not be used outside the boundaries of the territory of that authority or the county unless the governing body of each municipality in the county with territory in the authority and the governing body of the transportation authority consent to the use.

(c) Tax revenue collected in an area outside the territory

of a transportation authority funded by a dedicated sales tax and governed by a subregional board under Subchapter O, Chapter 452, Transportation Code, may not be used in the territory of that authority or outside the county unless the commissioners court of the county or the governing bodies of two or more municipalities representing 60 percent or more of the population of the county outside of the territory of the authority consent to the use.

(d) Before the commissioners court selects a mobility improvement project under Section 180.054, the governing body of any authority, county, or municipality required under this section to provide its consent regarding the use of revenue collected under this chapter shall indicate by order, resolution, or other formal action whether the consent is granted. On final approval of the project by the commissioners court, the governing body of a municipality or authority may not rescind its consent if it has been given.

[Sections 180.056-180.100 reserved for expansion]

SUBCHAPTER C. METHODS OF FINANCE

Sec. 180.101. METHODS OF FINANCE AUTHORIZED; EXPIRATION. (a) If approved by a majority of the votes cast in a county at an election held under Subchapter B, the county shall impose and collect any combination of the following methods of finance:

(1) a county local tax at a rate of 2, 4, 6, 8, or 10 cents per gallon on the sale of gasoline and diesel fuel that is sold in the county by a person, including a dealer, distributor, supplier, or permissive supplier, engaged in the sale of motor fuels used to propel a motor vehicle on the public highways of the

state;

(2) a mobility improvement fee, in an amount not less than $1 or more than $60, imposed on a person registering a motor vehicle in the county at the time of registration, except that the fee is not imposed on a person registering a motor vehicle in the manner provided by Section 501.0234, Transportation Code;

(3) a fee for the renewal of a driver's license issued to a county resident as described by Section 180.1015; and

(b) The mobility improvement fee authorized by this section is not an automobile registration fee and may not be construed as automobile registration fees for any legal or constitutional purpose.

(d) Except as otherwise provided by this subchapter, a county shall adopt rules and prescribe forms for the collection of a tax or fee authorized by this section. A person required to collect a tax or fee authorized by this section shall report and send the tax or fee to the county as provided by the county.

(e) A county imposing a tax or fee under this section may prescribe monetary penalties, including interest charges, for failure to keep records required by rules adopted under this section, failure to report when required, or failure to pay the tax when due.

(f) A county attorney, criminal district attorney, or district attorney may bring suit against a person to enforce the provisions of this section.

Sec. 180.1012. COUNTY AUTHORITY TO IMPOSE METHOD OF FUNDING. (a) A county may impose and collect a method of local

option funding approved by a majority of the voters of the county voting at an election held under this chapter and may enter into a contract or interlocal agreement as provided by Section 446.058 to implement the imposition or collection.

Sec. 180.1013. LOW-INCOME RELIEF. (a) A county commissioners court shall, by an order, establish an exemption, waiver, or partial reduction from the mobility improvement fee and the driver's license fee for citizens of the county of low or moderate income who demonstrate significant financial hardship, based on income guidelines adopted by the Texas Commission on Environmental Quality under Section 382.210, Health and Safety Code. Before issuing an order under this section, the commissioners court must hold a public hearing regarding the proposed exemption, waiver, or partial reduction.

(b) The commissioners court shall qualify for the exemption, waiver, or partial reduction established under this section any person who is eligible to participate in the income vehicle repair assistance, retrofit, and accelerated vehicle retirement program authorized under Chapter 382, Health and Safety Code.

Sec. 180.1014. IMPOSITION OF METHOD OF LOCAL OPTION FUNDING. (a) If a majority of the votes cast in an election held in a county under this chapter approve any method or combination of methods of local option funding, the commissioners court of the county by order shall, except in regard to a motor fuel tax, impose and begin the collection of the approved method or methods of funding before the 91st day after the election date.

(b) At a minimum, the order imposing the method or methods of local option funding must specify:

(1) the rate or amount of the method or methods approved at the election; and

(2) the manner in which each method will be administered, collected, and enforced.

(c) Sections 502.102, 502.1025, and 502.108, Transportation Code, do not apply to money collected under this chapter.

Sec. 180.1015. IMPOSITION OF COUNTY DRIVER'S LICENSE FEE. (a) In this section, "driver's license" and "license" have the meanings assigned by Section 521.001, Transportation Code.

(b) A county to which this chapter applies may, if approved in accordance with other provisions of this chapter, impose a fee on the renewal by a county resident of a license under Chapter 521, Transportation Code, in an amount not less than $1 or more than the license renewal fee under Section 521.421, Transportation Code. A fee imposed under this section is in addition to the fee imposed under Section 521.421, Transportation Code.

(c) A fee imposed by a county under this section shall be collected by the Department of Public Safety and deposited in trust in the separate suspense account of the county from which the fees were collected for allocation to the county as provided by this section.

(d) Each month, the comptroller shall send to the county treasurer or to the person who performs the office of the county treasurer the county's share of the fees payable to a municipality within the county collected by the Department of Public Safety

under this section.

(e) The comptroller may retain in the suspense account of a county a portion of the municipality's share of the fees collected for the municipality under this section, not to exceed two percent of the amount remitted to the county. If the county has abolished the fee, the amount that may be retained may not exceed two percent of the final remittance to the county at the time of the termination of the collection of the fee.

(f) From the amounts retained in a county's suspense account, the comptroller may redeem dishonored checks and drafts deposited to the credit of the account.

(g) Before the expiration of one year after the effective date of the abolition of a county driver's license fee imposed under this section, the comptroller shall send to the county the remainder of the money in the county's suspense account and shall close the account.

(h) Interest earned on all deposits made under this section, including interest earned from retained suspense accounts, shall be credited to the county's trust account and allocated to the county as described by this section.

(i) The county motor fuels tax is added to the selling price of the gasoline or diesel fuel and is part of the gasoline or diesel fuel price, is a debt owed to the seller, and is recoverable at law in the same manner as the fuel charge for gasoline or diesel fuel.

(j) The county motor fuels tax authorized by this section is in addition to the tax imposed by Chapter 162, Tax Code, and shall be collected in conjunction with that tax when gasoline or diesel

fuel is removed from a terminal using the terminal rack, other than by bulk transfer, to be sold or delivered into a county that has imposed the tax authorized by this section.

(k) A county shall discontinue the collection of a method of finance authorized under this chapter when the approved mobility improvement projects are accepted by the governmental entity that contracted for the projects or when the bonds are paid off, whichever is later, unless continued funding for maintenance and operation of a project, including the impact to an existing system as specified by an interlocal agreement, was authorized at an election held under this chapter.

Sec. 180.102. IMPOSITION OF COUNTY MOTOR FUELS TAX. (a) The comptroller shall administer, collect, and enforce a tax imposed on the sale of gasoline or diesel fuel approved in accordance with the provisions of this chapter. The tax shall be exclusively administered, collected, and enforced in conformance with Chapter 162, Tax Code, governing the tax assessed on the sale of gasoline and diesel fuel. References in Chapter 162, Tax Code, to taxes imposed under that chapter also include taxes imposed under this section.

(b) The definitions in Chapter 162, Tax Code, apply to this section.

(c) The exemptions provided by Sections 162.104 and 162.204, Tax Code, apply to the tax authorized by this section.

(d) Subject to Section 180.1025, the comptroller may adopt reasonable rules and prescribe forms that are consistent with this chapter and Chapter 162, Tax Code, for the administration,

collection, reporting, and enforcement of this section.

(e) Except as provided by Subsection (f), the tax authorized by this section takes effect on the first day of the first calendar quarter following the expiration of the first complete quarter occurring after the date of election authorizing the order imposing the tax under Subchapter B.

(f) If the comptroller determines that an effective date provided by Subsection (e) will occur before the comptroller can reasonably take the action required to begin collecting the tax, the comptroller may delay the effective date until the first day of the first calendar quarter following the date the comptroller declares that the comptroller is ready to begin collecting the tax.

(g) Except as otherwise provided by this chapter, a county shall adopt rules and prescribe forms for the collection of a tax authorized by this section. A person required to collect a tax authorized by this section shall report and send the tax to the county as provided by the county.

(h) A county imposing a tax under this chapter may prescribe monetary penalties, including interest charges, for failure to keep records required by rules adopted under this section, failure to report when required, or failure to pay the tax when due.

(i) A county attorney, criminal district attorney, or district attorney may bring suit against a person to enforce the provisions of this section.

(j) Before making a distribution to a county under Section 180.104, the comptroller shall deduct any costs incurred by the comptroller related to the comptroller's preparations to

administer, collect, and enforce a tax on the sale of gasoline or diesel fuel approved in accordance with this chapter. Each county that approves the imposition of a tax on the sale of gasoline or diesel fuel shall be charged a pro rata amount for the comptroller's costs in preparing to administer, collect, and enforce the tax. If only one county elects to approve the imposition of a tax on the sale of gasoline or diesel fuel in its jurisdiction, that county shall bear all of the costs incurred by the comptroller but may recover pro rata shares of this cost from other counties that approve the imposition of the tax.

Sec. 180.1025. ADOPTION OF RULES RELATING TO MOTOR FUELS TAX. (a) Before the comptroller may adopt rules under Section 180.102, the comptroller must consult with representatives of:

(1) the entities that would be required to:

(A) collect and remit a motor fuels tax imposed under this chapter; and

(B) file reports with the comptroller relating to a motor fuels tax imposed under this chapter; and

(2) counties in which the voters have approved the imposition of a motor fuels tax under this chapter.

(b) Rules adopted under Section 180.102 must provide for the uniform administration and reporting of all motor fuels taxes imposed by a county under this chapter. A county may not impose requirements on an entity required to collect a motor fuels tax under this chapter that are not specifically authorized by the rules adopted under Section 180.102.

(c) Rules adopted under Section 180.102:

(1) may require the comptroller to report sufficient information to each county imposing a motor fuels tax under this chapter to ensure proper allocation of revenue by the county under this chapter;

(2) may not require the comptroller to report proprietary information collected from an individual taxpayer in a way that would be subject to public disclosure; and

(3) may not authorize a county imposing a motor fuels tax under this chapter to contract with a private entity to perform any duty or responsibility associated with the collection, enforcement, or administration of the tax.

Sec. 180.103. TRUST ACCOUNT. The comptroller shall deposit the county taxes collected by the comptroller under this chapter and Chapter 162, Tax Code, in trust in the separate suspense account of the county for which the taxes were collected.

Sec. 180.104. DISTRIBUTION OF TRUST FUNDS. The comptroller shall each month distribute to the county treasurer, payable to the county and for deposit in the county mobility improvement fund, the county's share of the taxes collected by the comptroller under this chapter and Chapter 162, Tax Code.

Sec. 180.105. STATE'S SHARE. Before making a distribution to a county under Section 180.104, the comptroller also shall deduct an amount not to exceed two percent of the amount of the taxes collected for the county during the period for which a distribution is made as the state's charge for its services. The comptroller shall credit the amount deducted to the general revenue fund. The comptroller shall adjust the percentage of the amount

deducted each state fiscal year considering the projected expenditures necessary for the collection, administrative, and enforcement functions related to the county motor fuels tax.

Sec. 180.106. AMOUNTS RETAINED IN TRUST ACCOUNT. (a) The comptroller may retain in the suspense account of a county a portion of the county's share of the tax collected for the county under this chapter and Chapter 162, Tax Code, not to exceed five percent of the amount distributed to the county. If the county has abolished the tax, the amount that may be retained may not exceed five percent of the final distribution to the county at the time of the termination of the collection of the tax.

(b) From the amounts retained in a county's suspense account, the comptroller may correct erroneous deposits to the account, make refunds for overpayments to the account, and redeem dishonored checks and drafts deposited to the credit of the account.

(c) Before the fourth anniversary of the effective date of the abolition of a county tax collected under this chapter and Chapter 162, Tax Code, the comptroller shall send to the county the remainder of the money in the county's account and shall close the account.

Sec. 180.107. INTEREST ON TRUST ACCOUNT. Interest earned on all deposits made by the comptroller under this subchapter shall be credited to the suspense account of the county.

[Sections 180.108-180.150 reserved for expansion]

SUBCHAPTER D. FUND

Sec. 180.151. COUNTY MOBILITY IMPROVEMENT FUND. (a) The

commissioners court of each county that imposes a method of finance collected under this chapter shall, by order, establish a county mobility improvement fund that is separate and apart from the county's general fund account.

(b) The county shall deposit in the fund money distributed to the county under Section 180.104.

(c) The county shall establish segregated accounts in the fund:

(1) for each approved mobility improvement project; and

(2) for funds collected in the jurisdiction of a transit authority or transportation authority that is funded through a dedicated sales tax and that operates under Subchapter O, Chapter 452, or Chapter 460, Transportation Code.

(d) Money in the fund, including any interest earned, is the property of the county depositing the money and may be spent only as provided by Section 180.152.

Sec. 180.152. USE OF MONEY IN FUND; ISSUANCE OF BONDS. (a) A county may use money in its county mobility improvement fund to:

(1) reimburse or pay, without issuing bonds or other obligations or otherwise creating debt, the costs of planning, acquiring, establishing, developing, constructing, or renovating mobility improvement projects in the county that were approved at an election under this subchapter;

(2) pay the principal of, interest on, or other costs relating to bonds or other obligations the county issues for the

purpose of financing mobility improvement projects in the county that were approved at an election under this subchapter;

(3) pay amounts due and owing to a transit authority or transportation authority under a contract or interlocal agreement between the county and the authority under which the authority agrees to provide, develop, construct, install, and operate passenger rail facilities and services inside and outside the county and to issue bonds and other obligations that are secured by and payable from the amounts due from the county under the contract or interlocal agreement for the purpose of financing the capital costs of the facilities, if a county motor fuels tax was approved for that purpose at an election under this chapter;

(4) pay amounts due and owing to a municipality under a contract or interlocal agreement between the county and the municipality under which the municipality agrees to provide, develop, or construct mobility improvement projects located inside the municipality;

(5) pay amounts owed to a transit agency to accelerate the retirement of outstanding debt; and

(6) reimburse or pay the actual and customary costs of financial administration of the fund.

(b) A contract or interlocal agreement entered into between a county and a transit authority or transportation authority for the purposes described by Subsection (a)(3) may have those terms and provisions, and may impose and contain requirements, grants, and limitations, as the county and the transit authority or transportation authority may mutually agree, including the power of

the transit authority or transportation authority to pledge as security for its bonds all amounts, less agreed costs of collection, deposited to the county's local option transportation fund, if such a pledge was approved at an election under this subchapter.

(c) Bonds or other obligations issued by a county under this section may be made payable from money in the county's county mobility improvement fund, subject to any limitations contained in a contract or interlocal agreement between the county and a transit authority or transportation authority, and from any other sources of revenue of the county that are lawfully available. Bonds or other obligations issued by a transit authority or transportation authority under a contract or interlocal agreement shall be payable from and secured by the money in the county's county mobility improvement fund and the revenue received from the operation of the passenger rail services financed by the bonds or other obligations and may not include any revenue the transit authority or transportation authority receives from a dedicated sales tax or the operation of any other passenger rail or bus system or related services.

(d) Bonds or other obligations issued by a county under this section or by a transit authority or transportation authority under a contract or interlocal agreement may mature serially or otherwise not more than 30 years after the date of issuance.

(e) Any bonds or other obligations issued by a county or by a transit authority or transportation authority under this section, and the proceedings authorizing the bonds or other obligations,

must be submitted to the attorney general for review and approval under Chapter 1202, Government Code.

(f) A county may not:

(1) use money in the fund to finance the construction of a mobility improvement project not approved by the voters in an election under this chapter; or

(2) use funds approved for a particular mobility improvement project to fund a different project.

[Sections 180.153-180.200 reserved for expansion]

SUBCHAPTER E. TRANSIT AND TRANSPORTATION AUTHORITIES

Sec. 180.201. USE OF SALES TAX BY TRANSPORTATION AUTHORITY. A subregion of a transportation authority governed by a subregional board described by Subchapter O, Chapter 452, Transportation Code, may not use any proceeds from a sales and use tax imposed under that chapter, or any other revenue of the authority under that chapter, for a mobility improvement project under this chapter without the favorable vote of four-fifths of the members of the subregional board.

Sec. 180.202. TRANSIT AUTHORITY OR TRANSPORTATION AUTHORITY SERVICES NOT AUTHORIZED. (a) A county acting under this chapter may not directly operate or provide passenger rail services or any service expressly reserved by a transit authority or a transportation authority that serves the county.

(b) A motor fuels tax imposed by a county under this chapter may not be used to establish or fund services of a transit authority or a transportation authority created on or after January 1, 2009.

(c) This chapter does not authorize the creation of a

transit authority or a transportation authority.

SECTION 41.03. Subchapter C, Chapter 791, Government Code, is amended by adding Section 791.034 to read as follows:

Sec. 791.034. CONTRACTS RELATED TO COUNTY MOTOR FUELS TAXES. (a) The comptroller may enter into an interlocal contract with one or more local governments or political subdivisions to collect, administer, and enforce a county motor fuels tax enacted under Chapter 180, Local Government Code, and any other related law.

(b) This section expires January 1, 2012.

SECTION 41.04. Section 162.001, Tax Code, is amended by adding Subdivisions (16-a), (16-b), (56-a), (56-b), and (57-a) to read as follows:

(16-a) "County diesel fuel tax" means the tax imposed by Section 162.2011 or 162.2035.

(16-b) "County gasoline tax" means the tax imposed by Section 162.1011 or 162.1035.

(56-a) "State diesel fuel tax" means the tax imposed by Section 162.201 or 162.203.

(56-b) "State gasoline tax" means the tax imposed by Section 162.101 or 162.103.

(57-a) "Taxing county" means a destination county that has adopted the tax on motor vehicle fuel authorized by Chapter 616, Local Government Code.

SECTION 41.05. Sections 162.004(e) and (g), Tax Code, are amended to read as follows:

(e) A person to whom a shipping document was issued shall:

(1) carry the shipping document in the barge, vessel, railroad tank car, or other transport vehicle for which the document was issued when transporting the motor fuel described in the document;

(2) show the shipping document on request to any law enforcement officer, representative of the comptroller, or other authorized individual, when transporting the motor fuel described;

(3) deliver the motor fuel to the destination state printed on the shipping document unless the person:

(A) notifies the comptroller and the destination state, if a diversion program is in place, before transporting the motor fuel into a state other than the printed destination state, that the person has received instructions after the shipping document was issued to deliver the motor fuel to a different destination state;

(B) receives from the comptroller and destination state, if a diversion program is in place, a diversion number authorizing the diversion; and

(C) writes on the shipping document the change in destination state and the diversion number; [~~and~~]

(4) if delivering the motor fuel into a county in this state, denote on the shipping document the county to which the motor fuel will be delivered or, in the case of a split load, each county in which a portion of the motor fuel will be delivered; and

(5) give a copy of the shipping document to the person to whom the motor fuel is delivered.

(g) The person to whom motor fuel is delivered by barge,

vessel, railroad tank car, or transport vehicle may not accept delivery of the motor fuel if the destination state shown on the shipping document for the motor fuel is a state other than this state, except that the person may accept the [~~that~~] delivery if the document contains a diversion number authorized by the comptroller and destination state, if applicable, and has received a properly completed shipping document listing the county in this state in which the person accepts delivery. The person to whom the motor fuel is delivered shall examine the shipping document to determine that the destination state is this state and the county in this state is the county in which the person accepts delivery, and shall retain a copy of the shipping document at the delivery location or another place until the fourth anniversary of the date of delivery.

SECTION 41.06. Section 162.005(e), Tax Code, is amended to read as follows:

(e) The comptroller may revoke a license if the license holder:

(1) purchases for export motor fuel on which the tax was not paid under this chapter and subsequently diverts or causes the motor fuel to be diverted to a destination in this state or to any destination other than the originally designated state or country without first obtaining a diversion number; or

(2) delivers motor fuel on which the county gasoline tax or county diesel fuel tax is due without issuing a properly completed shipping document listing the taxing county in which the delivery occurred.

SECTION 41.07. Section 162.012, Tax Code, is amended to

read as follows:

Sec. 162.012. PRESUMPTIONS. (a) A person licensed under this chapter or required to be licensed under this chapter, or other user, who fails to keep a record, issue an invoice, or file a return or report required by this chapter is presumed to have sold or used for taxable purposes all motor fuel shown by an audit by the comptroller to have been sold to the license holder or other user. Motor fuel unaccounted for is presumed to have been sold or used for taxable purposes.

(b) If an exporter claims an exemption under Section 162.104(a)(4)(B) or 162.204(a)(4)(B) and fails to produce proof of payment of tax to the destination state or proof that the transaction was exempt in the destination state, the exporter is presumed to have not paid the destination state's tax or this state's tax on the exported motor fuel and the comptroller shall assess the tax imposed by this chapter on the exported motor fuel against the exporter.

(c) If a person claims an exemption from the county motor fuels tax and fails to produce proof of delivery to a nontaxing county, the person is presumed to have delivered the motor fuel to a taxing county that imposes the tax on motor vehicle fuels authorized by Chapter 616, Local Government Code.

(d) The comptroller may fix or establish the amount of taxes, penalties, and interest due this state from the records of deliveries or from any records or information available. If a tax claim, as developed from this procedure, is not paid, after the opportunity to request a redetermination, the claim and any audit

made by the comptroller or any report filed by the license holder or other user is evidence in any suit or judicial proceedings filed by the attorney general and is prima facie evidence of the correctness of the claim or audit. A prima facie presumption of the correctness of the claim may be overcome at the trial by evidence adduced by the license holder or other user.

(e) [~~(b)~~] In the absence of records showing the number of miles actually operated per gallon of motor fuel consumed, it is presumed that not less than one gallon of motor fuel was consumed for every four miles traveled. An interstate trucker may produce evidence of motor fuel consumption to establish another mileage factor. If an examination or audit made by the comptroller from the records of an interstate trucker shows that a greater amount of motor fuel was consumed than was reported by the interstate trucker for tax purposes, the interstate trucker is liable for the tax, penalties, and interest on the additional amount shown or the trucker is entitled to a credit or refund on overpayments of tax established by the audit.

SECTION 41.08. Section 162.015, Tax Code, is amended to read as follows:

Sec. 162.015. ADDITIONAL TAX APPLIES TO INVENTORIES. (a) On the effective date of an increase in the rate [~~rates~~] of a tax [~~the taxes~~] imposed by this chapter, a distributor or dealer that possesses for the purpose of sale 2,000 or more gallons of gasoline or diesel fuel at each business location on which a tax [~~the taxes~~] imposed by this chapter at a previous rate has [~~have~~] been paid shall report to the comptroller the volume of that gasoline and

diesel fuel, and at the time of the report shall pay a tax on that gasoline and diesel fuel at a rate equal to the rate of the tax increase.

(b) On the effective date of a reduction of the rate [~~rates~~] of a tax [~~taxes~~] imposed by this chapter, a distributor or dealer that possesses for the purpose of sale 2,000 or more gallons of gasoline or diesel fuel at each business location on which a tax [~~the taxes~~] imposed by this chapter at the previous rate has [~~have~~] been paid becomes entitled to a refund in an amount equal to the difference in the amount of the tax [~~taxes~~] paid on that gasoline or diesel fuel at the previous rate and at the rate in effect on the effective date of the reduction in the tax rate [~~rates~~]. The rules of the comptroller shall provide for the method of claiming a refund under this chapter and may require that the refund for the dealer be paid through the distributor or supplier from whom the dealer received the fuel.

SECTION 41.09. Section 162.016, Tax Code, is amended by amending Subsection (a) and adding Subsection (g-1) to read as follows:

(a) A person may not import motor fuel to a destination in this state or export motor fuel to a destination outside this state by any means unless the person possesses a shipping document for that fuel created by the terminal or bulk plant at which the fuel was received. The shipping document must include:

(1) the name and physical address of the terminal or bulk plant from which the motor fuel was received for import or export;

(2) the name and federal employer identification number, or the social security number if the employer identification number is not available, of the carrier transporting the motor fuel;

(3) the date the motor fuel was loaded;

(4) the type of motor fuel;

(5) the number of gallons:

(A) in temperature-adjusted gallons if purchased from a terminal for export or import; or

(B) in temperature-adjusted gallons or in gross gallons if purchased from a bulk plant;

(6) the destination state and, if the destination state is this state, the county in this state to which the gasoline or diesel fuel will be delivered [~~of the motor fuel~~] as represented by the purchaser of the motor fuel and the number of gallons of the fuel to be delivered, if delivery is to only one state;

(7) the name, federal employer identification number, license number, and physical address of the purchaser of the motor fuel;

(8) the name of the person responsible for paying the tax imposed by this chapter, as given to the terminal by the purchaser if different from the licensed supplier or distributor; and

(9) any other information that, in the opinion of the comptroller, is necessary for the proper administration of this chapter.

(g-1) An importer or exporter who wants to deliver a single

cargo tank of motor fuel to a county in this state must issue a properly completed shipping document denoting the county to which the motor fuel will be delivered or, in the case of a split load, each county to which a portion of the motor fuel will be delivered.

SECTION 41.10. The heading to Section 162.101, Tax Code, is amended to read as follows:

Sec. 162.101. POINT OF IMPOSITION OF STATE GASOLINE TAX.

SECTION 41.11. Sections 162.101(a), (b), (c), and (f), Tax Code, are amended to read as follows:

(a) A tax is imposed on the removal of gasoline from the terminal using the terminal rack, other than by bulk transfer. The supplier or permissive supplier shall collect the tax imposed by this section [~~subchapter~~] from the person who orders the withdrawal at the terminal rack.

(b) A tax is imposed at the time gasoline is imported into this state, other than by a bulk transfer, for delivery to a destination in this state. The permissive supplier shall collect the tax imposed by this section [~~subchapter~~] from the person who imports the gasoline into this state. If the seller is not a permissive supplier, then the person who imports the gasoline into this state shall pay the tax.

(c) A tax is imposed on the sale or transfer of gasoline in the bulk transfer/terminal system in this state by a supplier to a person who does not hold a supplier's license. The supplier shall collect the tax imposed by this section [~~subchapter~~] from the person who orders the sale or transfer in the bulk transfer terminal system.

(f) A terminal operator in this state is considered a supplier for the purpose of the tax imposed by [~~under~~] this section [~~subchapter~~] unless at the time of removal:

(1) the terminal operator has a terminal operator's license issued for the facility from which the gasoline is withdrawn;

(2) the terminal operator verifies that the person who removes the gasoline has a supplier's license; and

(3) the terminal operator does not have a reason to believe that the supplier's license is not valid.

SECTION 41.12. Subchapter B, Chapter 162, Tax Code, is amended by adding Section 162.1011 to read as follows:

Sec. 162.1011. IMPOSITION OF COUNTY GASOLINE TAX; POINT OF COLLECTION. (a) In a county that imposes the tax on motor vehicle fuels authorized by Chapter 616, Local Government Code, a tax is imposed on the delivery of gasoline into the taxing county.

(b) The distributor shall collect the tax imposed by this section from each person on delivery of gasoline into a taxing county.

(c) In each subsequent sale of gasoline on which the tax has been paid, the tax imposed by this section shall be collected from the purchaser so that the tax is paid ultimately by the person who uses the gasoline. Gasoline is considered to be used when it is delivered into a fuel supply tank.

SECTION 41.13. Section 162.102, Tax Code, is amended to read as follows:

Sec. 162.102. TAX RATES [~~RATE~~]. (a) The state gasoline tax

rate is 20 cents for each net gallon or fractional part of a net gallon on which the tax is imposed under Section 162.101.

(b) In a taxing county, the county gasoline tax rate for each net gallon or fractional part of a net gallon is the rate established by Chapter 616, Local Government Code.

SECTION 41.14. The heading to Section 162.103, Tax Code, is amended to read as follows:

Sec. 162.103. BACKUP STATE GASOLINE TAX; LIABILITY.

SECTION 41.15. Sections 162.103(a) and (c), Tax Code, are amended to read as follows:

(a) A backup tax is imposed at the rate prescribed by Section 162.102(a) [~~162.102~~] on:

(1) a person who obtains a refund of tax on gasoline by claiming the gasoline was used for an off-highway purpose, but actually uses the gasoline to operate a motor vehicle on a public highway;

(2) a person who operates a motor vehicle on a public highway using gasoline on which tax has not been paid; and

(3) a person who sells to the ultimate consumer gasoline on which tax has not been paid and who knew or had reason to know that the gasoline would be used for a taxable purpose.

(c) The tax imposed by [~~under~~] Subsection (a)(3) is also imposed on the ultimate consumer.

SECTION 41.16. Subchapter B, Chapter 162, Tax Code, is amended by adding Section 162.1035 to read as follows:

Sec. 162.1035. BACKUP COUNTY GASOLINE TAX; LIABILITY. (a) A backup tax is imposed at the rate prescribed by Section 162.102(b)

on:

(1) a person who, in a county that imposes the tax authorized by Chapter 616, Local Government Code:

(A) delivers gasoline into the fuel supply tank of a motor vehicle;

(B) purchases or receives gasoline from another person; or

(C) sells or delivers gasoline to another person; and

(2) a person who obtains a refund of the tax imposed by Section 162.1011 for gasoline that the person delivered into the fuel supply tank of a motor vehicle, purchased or acquired, or sold or delivered in a county that imposes the tax authorized by Chapter 616, Local Government Code.

(b) A person who sells gasoline subject to the tax imposed by this section shall at the time of sale collect the tax from the purchaser or recipient of the gasoline in addition to the selling price and is liable to this state for the taxes collected at the time and in the manner provided by this chapter.

(c) The following are exempt from the tax imposed by this section:

(1) gasoline on which the tax imposed by Section 162.1011 has been paid; and

(2) gasoline exempt under Section 162.104.

(d) The tax imposed by this section is in addition to any penalty imposed under this chapter.

SECTION 41.17. Sections 162.104(a) and (c), Tax Code, are

amended to read as follows:

(a) The taxes [~~tax~~] imposed by this subchapter do [~~does~~] not apply to gasoline:

(1) sold to the United States for its exclusive use, provided that the exemption does not apply with respect to fuel sold or delivered to a person operating under a contract with the United States;

(2) sold to a public school district in this state for the district's exclusive use;

(3) sold to a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the gasoline only to provide those services;

(4) exported by either a licensed supplier or a licensed exporter from this state to any other state, provided that:

(A) for gasoline in a situation described by Subsection (d), the bill of lading indicates the destination state and the supplier collects the destination state tax; or

(B) for gasoline in a situation described by Subsection (e), the bill of lading indicates the destination state, the gasoline is subsequently exported, and the exporter is licensed in the destination state to pay that state's tax and has an exporter's license issued under this subchapter;

(5) moved by truck or railcar between licensed suppliers or licensed permissive suppliers and in which the

gasoline removed from the first terminal comes to rest in the second terminal, provided that the removal from the second terminal rack is subject to the state gasoline tax imposed by this subchapter;

(6) delivered or sold into a storage facility of a licensed aviation fuel dealer from which gasoline will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment, or sold from one licensed aviation fuel dealer to another licensed aviation fuel dealer who will deliver the aviation fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment; or

(7) exported to a foreign country if the bill of lading indicates the foreign destination and the fuel is actually exported to the foreign country.

(c) If an exporter described by Subsection (a)(4)(B) does not have an exporter's license issued under this subchapter, the supplier must collect the state gasoline tax imposed by [~~under~~] this subchapter.

SECTION 41.18. Section 162.105, Tax Code, is amended to read as follows:

Sec. 162.105. PERSONS REQUIRED TO BE LICENSED. A person shall obtain the appropriate license or licenses issued by the comptroller before conducting the activities of:

(1) a supplier, who may also act as a distributor, importer, exporter, blender, motor fuel transporter, dealer, or aviation fuel dealer without securing a separate license, but who is subject to all other conditions, requirements, and liabilities imposed on those license holders;

(2) a permissive supplier, who may also act as a distributor, importer, exporter, blender, motor fuel transporter, dealer, or aviation fuel dealer without securing a separate license, but who is subject to all other conditions, requirements, and liabilities imposed on those license holders;

(3) a distributor, who may also act as an importer, exporter, blender, [~~or~~] motor fuel transporter, or dealer without securing a separate license, but who is subject to all other conditions, requirements, and liabilities imposed on those license holders;

(4) an importer, who may also act as an exporter, blender, [~~or~~] motor fuel transporter, or dealer without securing a separate license, but who is subject to all other conditions, requirements, and liabilities imposed on those license holders;

(5) a terminal operator;

(6) an exporter;

(7) a blender;

(8) a motor fuel transporter;

(9) an aviation fuel dealer; [~~or~~]

(10) an interstate trucker; or

(11) a dealer.

SECTION 41.19. Sections 162.107(a) and (b), Tax Code, are amended to read as follows:

(a) A person may elect to obtain a permissive supplier license to collect the state gasoline tax imposed by [~~under~~] this subchapter for gasoline that is removed at a terminal in another state and has this state as the destination state.

(b) With respect to gasoline that is removed by the licensed permissive supplier at a terminal located in another state and that has this state as the destination state, a licensed permissive supplier shall:

(1) collect the state gasoline tax due to this state on the gasoline;

(2) waive any defense that this state lacks jurisdiction to require the supplier to collect the state gasoline tax due to this state on the gasoline under this subchapter;

(3) report and pay the state gasoline tax and the county gasoline tax due on the gasoline in the same manner as if the removal had occurred at a terminal located in this state;

(4) keep records of the removal of the gasoline and submit to audits concerning the gasoline as if the removal had occurred at a terminal located in this state; and

(5) report sales by the permissive supplier to a person who is not licensed in this state.

SECTION 41.20. Section 162.108, Tax Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) In addition to the information required by Subsection (a), an applicant for a license as a dealer must list on the application:

(1) the street address, city, county, and zip code of the location for which the applicant seeks a license to sell or dispense motor fuel at retail;

(2) the applicant's social security number, driver's license number, and federal employer identification number if the

applicant is a natural person who is not licensed as a supplier, permissive supplier, or terminal operator; and

(3) if the applicant is a corporation, limited liability company, professional association, partnership, or other entity that is not licensed as a supplier, permissive supplier, or terminal operator and is not wholly owned by an entity that is licensed as a supplier, permissive supplier, or terminal operator, the physical address, mailing address, social security number, and driver's license number of:

(A) each natural person responsible for the purchase of motor fuel for sale by the applicant; and

(B) each officer, director, manager, member, shareholder, and partner of the applicant.

SECTION 41.21. Section 162.110(a), Tax Code, is amended to read as follows:

(a) The license issued to a supplier, permissive supplier, distributor, importer, exporter, terminal operator, blender, [~~or~~] motor fuel transporter, or dealer is permanent and is valid during the period the license holder has in force and effect the required bond or security and furnishes timely reports and supplements as required, or until the license is surrendered by the holder or canceled by the comptroller. The comptroller shall cancel a license under this subsection if a purchase, sale, or use of gasoline has not been reported by the license holder during the previous nine months.

SECTION 41.22. Section 162.111(a), Tax Code, is amended to read as follows:

(a) The comptroller shall determine the amount of security required of a supplier, permissive supplier, distributor, exporter, importer, dealer, or blender, taking into consideration the amount of tax that has or is expected to become due from the person, any past history of the person as a license holder under this chapter or its predecessor, and the necessity to protect this state against the failure to pay the tax as the tax becomes due.

SECTION 41.23. Section 162.112(a), Tax Code, is amended to read as follows:

(a) The comptroller, on or before December 20 of each year, shall make available to all license holders an alphabetical list of licensed suppliers, permissive suppliers, distributors, aviation fuel dealers, importers, exporters, blenders, dealers, and terminal operators. A supplemental list of additions and deletions shall be made available to the license holders each month. A current and effective license or the list furnished by the comptroller is evidence of the validity of the license until the comptroller notifies license holders of a change in the status of a license holder.

SECTION 41.24. Sections 162.113(a), (d), and (e), Tax Code, are amended to read as follows:

(a) Each [~~licensed~~] distributor and [~~licensed~~] importer shall remit to the supplier or permissive supplier, as applicable, the tax imposed by Section 162.101 for gasoline removed at a terminal rack. A licensed distributor or licensed importer may elect to defer payment of the tax to the supplier or permissive supplier until two days before the date the supplier or permissive

supplier is required to remit the tax to this state. The distributor or importer shall pay the taxes by electronic funds transfer.

(d) The supplier or permissive supplier has the right, after notifying the comptroller of the licensed distributor's or licensed importer's failure to remit taxes under this section, to terminate the ability of the licensed distributor or licensed importer to defer the payment of gasoline tax. The supplier or permissive supplier shall reinstate without delay the right of the licensed distributor or licensed importer to defer the payment of gasoline tax after the comptroller provides to the supplier or permissive supplier notice that the licensed distributor or licensed importer is in good standing with the comptroller for the purposes of the taxes [~~gasoline tax~~] imposed by [~~under~~] this subchapter.

(e) A licensed distributor or licensed importer who makes timely payments of the state gasoline tax imposed by [~~under~~] this subchapter is entitled to retain an amount equal to 1.75 percent of the total state gasoline tax [~~taxes~~] to be paid to the supplier or permissive supplier to cover administrative expenses.

SECTION 41.25. Section 162.114(a), Tax Code, is amended to read as follows:

(a) Except as provided by Subsection (b), each person who is liable for the taxes [~~tax~~] imposed by this subchapter, a terminal operator, a dealer, and a [~~licensed~~] distributor shall file a return on or before the 25th day of the month following the end of each calendar month.

SECTION 41.26. Sections 162.115(b), (c), (e), (g), and (h),

Tax Code, are amended to read as follows:

(b) A distributor shall keep:

(1) a record showing the number of gallons of:

(A) all gasoline inventories on hand at the first of each month;

(B) all gasoline blended;

(C) all gasoline purchased or received, showing the name of the seller and the date of each purchase or receipt;

(D) all gasoline sold, distributed, or used, showing:

(i) the name of the purchaser;

(ii) the county in this state to which the gasoline was delivered;

(iii) the amount of county gasoline tax collected from the purchaser; and

(iv) the date of the sale, distribution, or use; and

(E) all gasoline lost by fire, theft, or accident;

(2) an itemized statement showing by load the number of gallons of all gasoline:

(A) received during the preceding calendar month for export and the location of the loading;

(B) sold, distributed, or used, showing:

(i) the name of the purchaser;

(ii) the county or counties in this state;

(iii) the amount of county gasoline tax

collected from the purchaser; and

(iv) the date of the sale, distribution, or use;

(C) exported from this state by destination state or country; and

(D) [~~(C)~~] imported during the preceding calendar month by state or country of origin; [~~and~~]

(3) for gasoline exported from this state, proof of payment of tax to the destination state in a form acceptable to the comptroller; and

(4) all shipping documents.

(c) An importer shall keep:

(1) a record showing the number of gallons of:

(A) all gasoline inventories on hand at the first of each month;

(B) all gasoline compounded or blended;

(C) all gasoline purchased or received, showing the name of the seller and the date of each purchase or receipt;

(D) all gasoline sold, distributed, or used, showing the name of the purchaser, the county in this state, and the date of the sale, distribution, or use; and

(E) all gasoline lost by fire, theft, or accident; and

(2) an itemized statement showing by load the number of gallons of all gasoline:

(A) received during the preceding calendar month for export and the location of the loading;

(B) sold, distributed, or used, showing the name of the purchaser, the county or counties in this state, and the date of the sale, distribution, or use;

(C) exported from this state by destination state or country; and

(D) [~~(C)~~] imported during the preceding calendar month by state or country of origin.

(e) A blender shall keep a record showing the number of gallons of:

(1) all gasoline inventories on hand at the first of each month;

(2) all gasoline compounded or blended;

(3) all gasoline purchased or received, showing the name of the seller and the date of each purchase or receipt;

(4) all gasoline sold, distributed, or used, showing the name of the purchaser, the county in this state, and the date of the sale or use; and

(5) all gasoline lost by fire, theft, or accident.

(g) A motor fuel transporter shall keep a complete and separate record of each intrastate and interstate transportation of gasoline, showing:

(1) the date of transportation;

(2) the name of the consignor and consignee;

(3) the means of transportation;

(4) the quantity and kind of gasoline transported;

(5) full data concerning the diversion of shipments, including the county in this state and the number of gallons

diverted from interstate to intrastate and intrastate to interstate commerce; and

(6) the points of origin and destination, the county in this state, the number of gallons shipped or transported, the date, the consignee and the consignor, and the kind of gasoline that has been diverted.

(h) A dealer shall keep a record showing the number of gallons of:

(1) gasoline inventories on hand at the first of each month;

(2) all gasoline purchased or received, showing the name of the seller and the date of each purchase or receipt;

(3) all gasoline sold or used, showing the date of the sale or use; [~~and~~]

(4) all gasoline lost by fire, theft, or accident; and

(5) the shipping documents.

SECTION 41.27. Section 162.116(c), Tax Code, is amended to read as follows:

(c) A supplier or permissive supplier may take a credit for any state gasoline tax [~~taxes~~] that was [~~were~~] not remitted in a previous period to the supplier or permissive supplier by a licensed distributor or licensed importer as required by Section 162.113. The supplier or permissive supplier is eligible to take the credit if the comptroller is notified of the default within 60 days after the default occurs. If a license holder pays to a supplier or permissive supplier the tax owed, but the payment occurs after the supplier or permissive supplier has taken a credit

on its return, the supplier or permissive supplier shall remit the payment to the comptroller with the next monthly return after receipt of the tax, plus a penalty of 10 percent of the amount of unpaid taxes and interest at the rate provided by Section 111.060 beginning on the date the credit was taken.

SECTION 41.28. Section 162.118, Tax Code, is amended to read as follows:

Sec. 162.118. INFORMATION REQUIRED ON DISTRIBUTOR'S RETURN; PAYMENT OF TAXES AND ALLOWANCES. (a) The monthly return and supplements of each distributor shall contain for the period covered by the return:

(1) the number of net gallons of gasoline received by the distributor during the month, sorted by product code, seller, point of origin, destination state, carrier, and receipt date;

(2) the number of net gallons of gasoline removed at a terminal rack by the distributor during the month, sorted by product code, seller, terminal code, and carrier;

(3) the number of net gallons of gasoline removed by the distributor during the month for export, sorted by product code, terminal code, bulk plant address, destination state, and carrier;

(4) the number of net gallons of gasoline removed by the distributor during the month from a terminal located in another state for conveyance to this state, as indicated on the shipping document for the gasoline, sorted by product code, seller, terminal code, bulk plant address, and carrier;

(5) the number of net gallons of gasoline the

distributor sold during the month in transactions exempt under Section 162.104, sorted by product code and purchaser; [~~and~~]

(6) the number of net gallons delivered into a taxing county sorted by taxing county and purchaser; and

(7) any other information required by the comptroller.

(b) A distributor or importer who makes timely payments of the county tax imposed by this subchapter is entitled to retain an amount equal to two percent of the total county gasoline taxes remitted to the comptroller to cover administrative expenses.

SECTION 41.29. Section 162.123, Tax Code, is amended to read as follows:

Sec. 162.123. INFORMATION REQUIRED ON BLENDER'S RETURN. The monthly return and supplements of each blender shall contain for the period covered by the return:

(1) the number of net gallons of gasoline received by the blender during the month, sorted by product code, seller, point of origin, carrier, and receipt date;

(2) the number of net gallons of product blended with gasoline during the month, sorted by product code, type of blending agent if no product code exists, seller, and carrier;

(3) the number of net gallons of blended gasoline sold during the month and the license number or name, [~~and~~] address, and county in this state of the entity receiving the blended gasoline; and

(4) any other information required by the comptroller.

SECTION 41.30. Subchapter B, Chapter 162, Tax Code, is amended by adding Section 162.1235 to read as follows:

Sec. 162.1235. INFORMATION REQUIRED ON DEALER'S RETURN. The monthly return and supplements of each dealer shall contain for the period covered by the return:

(1) the number of gallons of gasoline inventories on hand at the first of each month, sorted by product code;

(2) the number of gallons of gasoline received by the dealer during the month, sorted by seller;

(3) the number of gallons of gasoline inventories on hand at the end of each month; and

(4) any other information required by the comptroller.

SECTION 41.31. Sections 162.127(a) and (d), Tax Code, are amended to read as follows:

(a) A refund claim must be filed on a form provided by the comptroller, be supported by the original invoice issued by the seller, and contain:

(1) the stamped or preprinted name and address, including county in this state, of the seller;

(2) the name and address of the purchaser;

(3) the date of delivery of the gasoline;

(4) the date of the issuance of the invoice, if different from the date of fuel delivery;

(5) the number of gallons of gasoline delivered;

(6) the amount of state or county gasoline taxes paid [~~tax~~], either separately stated from the selling price or stated with a notation that both state and county taxes are included if both apply [~~the selling price includes the tax~~]; and

(7) the type of vehicle or equipment, such as a

motorboat, railway engine, motor vehicle, off-highway vehicle, or refrigeration unit or stationary engine, into which the fuel is delivered.

(d) A distributor or person who does not hold a license who files a valid refund claim with the comptroller shall be paid by a warrant issued by the comptroller. For purposes of this section, a distributor meets the requirement of filing a valid refund claim <u>for state and county gasoline taxes</u> if the distributor designates the gallons of gasoline sold or used that are the subject of the refund claim on the monthly report submitted by the distributor to the comptroller.

SECTION 41.32. The heading to Section 162.201, Tax Code, is amended to read as follows:

Sec. 162.201. POINT OF IMPOSITION OF <u>STATE</u> DIESEL FUEL TAX.

SECTION 41.33. Sections 162.201(a), (b), and (c), Tax Code, are amended to read as follows:

(a) A tax is imposed on the removal of diesel fuel from the terminal using the terminal rack other than by bulk transfer. The supplier or permissive supplier shall collect the tax imposed by this <u>section</u> [~~subchapter~~] from the person who orders the withdrawal at the terminal rack.

(b) A tax is imposed at the time diesel fuel is imported into this state, other than by a bulk transfer, for delivery to a destination in this state. The permissive supplier shall collect the tax imposed by this <u>section</u> [~~subchapter~~] from the person who imports the diesel fuel into this state. If the seller is not a permissive supplier, the person who imports the diesel fuel into

this state shall pay the tax.

(c) A tax is imposed on the sale or transfer of diesel fuel in the bulk transfer/terminal system in this state by a supplier to a person who does not hold a supplier's license. The supplier shall collect the tax imposed by this section [~~subchapter~~] from the person who orders the sale or transfer in the bulk transfer/terminal system.

SECTION 41.34. Subchapter C, Chapter 162, Tax Code, is amended by adding Section 162.2011 to read as follows:

Sec. 162.2011. COUNTY DIESEL FUEL TAX IMPOSED; POINT OF COLLECTION. (a) In a county that imposes the tax on motor vehicle fuels authorized by Chapter 616, Local Government Code, a tax is imposed on the delivery of diesel fuel into the taxing county.

(b) The distributor shall collect the tax imposed by this section from each person on delivery of diesel fuel into a taxing county.

(c) In each subsequent sale of diesel fuel on which the tax has been paid, the tax imposed by this section shall be collected from the purchaser so that the tax is paid ultimately by the person who uses the diesel fuel. Diesel fuel is considered to be used when it is delivered into a fuel supply tank.

SECTION 41.35. Section 162.202, Tax Code, is amended to read as follows:

Sec. 162.202. TAX RATES [~~RATE~~]. (a) The state diesel fuel tax rate is 20 cents for each net gallon or fractional part of a net gallon on which the tax is imposed under Section 162.201.

(b) In a taxing county, the county diesel fuel tax rate for

each net gallon or fractional part of a net gallon is the rate established by Chapter 616, Local Government Code.

SECTION 41.36. The heading to Section 162.203, Tax Code, is amended to read as follows:

Sec. 162.203. BACKUP STATE DIESEL FUEL TAX; LIABILITY.

SECTION 41.37. Sections 162.203(a) and (c), Tax Code, are amended to read as follows:

(a) A backup tax is imposed at the rate prescribed by Section 162.202(a) [~~162.202~~] on:

(1) a person who obtains a refund of tax on diesel fuel by claiming the diesel fuel was used for an off-highway purpose, but actually uses the diesel fuel to operate a motor vehicle on a public highway;

(2) a person who operates a motor vehicle on a public highway using diesel fuel on which tax has not been paid; and

(3) a person who sells to the ultimate consumer diesel fuel on which a tax has not been paid and who knew or had reason to know that the diesel fuel would be used for a taxable purpose.

(c) The tax imposed by [~~under~~] Subsection (a)(3) is also imposed on the ultimate consumer.

SECTION 41.38. Subchapter C, Chapter 162, Tax Code, is amended by adding Section 162.2035 to read as follows:

Sec. 162.2035. BACKUP COUNTY DIESEL FUEL TAX; LIABILITY. (a) A backup tax is imposed at the rate prescribed by Section 162.202(b) on:

(1) a person who, in a county that imposes the tax authorized by Chapter 616, Local Government Code:

(A) delivers diesel fuel into the fuel supply tank of a motor vehicle;

(B) purchases or receives diesel fuel from another person; or

(C) sells or delivers diesel fuel to another person; and

(2) a person who obtains a refund of the tax imposed by Section 162.2011 for diesel fuel that the person delivered into the fuel supply tank of a motor vehicle, purchased or acquired, or sold or delivered in a county that imposes the tax authorized by Chapter 616, Local Government Code.

(b) A person who sells diesel fuel subject to the tax imposed by this section shall at the time of sale collect the tax from the purchaser or recipient of the diesel fuel in addition to the selling price and is liable to this state for the taxes collected at the time and in the manner provided by this chapter.

(c) The following are exempt from the tax imposed by this section:

(1) diesel fuel on which the tax imposed by Section 162.2011 had been paid; and

(2) diesel fuel exempt under Section 162.204.

(d) The tax imposed by this section is in addition to any penalty imposed under this chapter.

SECTION 41.39. Sections 162.204(a) and (c), Tax Code, are amended to read as follows:

(a) The taxes [~~tax~~] imposed by this subchapter do [~~does~~] not apply to:

(1) diesel fuel sold to the United States for its exclusive use, provided that the exemption does not apply to diesel fuel sold or delivered to a person operating under a contract with the United States;

(2) diesel fuel sold to a public school district in this state for the district's exclusive use;

(3) diesel fuel sold to a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the diesel fuel only to provide those services;

(4) diesel fuel exported by either a licensed supplier or a licensed exporter from this state to any other state, provided that:

(A) for diesel fuel in a situation described by Subsection (d), the bill of lading indicates the destination state and the supplier collects the destination state tax; or

(B) for diesel fuel in a situation described by Subsection (e), the bill of lading indicates the destination state, the diesel fuel is subsequently exported, and the exporter is licensed in the destination state to pay that state's tax and has an exporter's license issued under this subchapter;

(5) diesel fuel moved by truck or railcar between licensed suppliers or licensed permissive suppliers and in which the diesel fuel removed from the first terminal comes to rest in the second terminal, provided that the removal from the second terminal

rack is subject to the state diesel tax imposed by this subchapter;

(6) diesel fuel delivered or sold into a storage facility of a licensed aviation fuel dealer from which the diesel fuel will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment, or sold from one licensed aviation fuel dealer to another licensed aviation fuel dealer who will deliver the diesel fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment;

(7) diesel fuel exported to a foreign country if the bill of lading indicates the foreign destination and the fuel is actually exported to the foreign country;

(8) dyed diesel fuel sold or delivered by a supplier to another supplier and dyed diesel fuel sold or delivered by a supplier or distributor into the bulk storage facility of a dyed diesel fuel bonded user or to a purchaser who provides a signed statement as provided by Section 162.206;

(9) the volume of water, fuel ethanol, biodiesel, or mixtures thereof that are blended together with taxable diesel fuel when the finished product sold or used is clearly identified on the retail pump, storage tank, and sales invoice as a combination of diesel fuel and water, fuel ethanol, biodiesel, or mixtures thereof;

(10) dyed diesel fuel sold by a supplier or permissive supplier to a distributor, or by a distributor to another distributor;

(11) dyed diesel fuel delivered by a license holder into the fuel supply tanks of railway engines, motorboats, or

refrigeration units or other stationary equipment powered by a separate motor from a separate fuel supply tank;

(12) dyed kerosene when delivered by a supplier, distributor, or importer into a storage facility at a retail business from which all deliveries are exclusively for heating, cooking, lighting, or similar nonhighway use; or

(13) diesel fuel used by a person, other than a political subdivision, who owns, controls, operates, or manages a commercial motor vehicle as defined by Section 548.001, Transportation Code, if the fuel:

(A) is delivered exclusively into the fuel supply tank of the commercial motor vehicle; and

(B) is used exclusively to transport passengers for compensation or hire between points in this state on a fixed route or schedule.

(c) If an exporter described by Subsection (a)(4)(B) does not have an exporter's license issued under this subchapter, the supplier must collect the state diesel fuel tax imposed by [~~under~~] this subchapter.

SECTION 41.40. Section 162.205(a), Tax Code, is amended to read as follows:

(a) A person shall obtain the appropriate license or licenses issued by the comptroller before conducting the activities of:

(1) a supplier, who may also act as a distributor, importer, exporter, blender, motor fuel transporter, dealer, or aviation fuel dealer without securing a separate license, but who

is subject to all other conditions, requirements, and liabilities imposed on those license holders;

(2) a permissive supplier, who may also act as a distributor, importer, exporter, blender, motor fuel transporter, dealer, or aviation fuel dealer without securing a separate license but who is subject to all other conditions, requirements, and liabilities imposed on those license holders;

(3) a distributor, who may also act as an importer, exporter, blender, [~~or~~] motor fuel transporter, or dealer without securing a separate license, but who is subject to all other conditions, requirements, and liabilities imposed on those license holders;

(4) an importer, who may also act as an exporter, blender, [~~or~~] motor fuel transporter, or dealer without securing a separate license, but who is subject to all other conditions, requirements, and liabilities imposed on those license holders;

(5) a terminal operator;

(6) an exporter;

(7) a blender;

(8) a motor fuel transporter;

(9) an aviation fuel dealer;

(10) an interstate trucker; [~~or~~]

(11) a dyed diesel fuel bonded user; or

(12) a dealer.

SECTION 41.41. Section 162.206(d), Tax Code, is amended to read as follows:

(d) Any gallons purchased or sold in excess of the

limitations prescribed by Subsection (c) constitute a [~~taxable~~] purchase or sale subject to the taxes imposed by this subchapter. The purchaser paying the tax on dyed diesel fuel in excess of the limitations prescribed by Subsection (c) may claim a refund of the tax paid on any dyed diesel fuel used for nonhighway purposes under Section 162.227. A purchaser that exceeds the limitations prescribed by Subsection (c) shall be required to obtain a dyed diesel fuel bonded user license.

SECTION 41.42. Sections 162.208(a) and (b), Tax Code, are amended to read as follows:

(a) A person may elect to obtain a permissive supplier license to collect the state diesel fuel tax imposed by [~~under~~] this subchapter for diesel fuel that is removed at a terminal in another state and has this state as the destination state.

(b) With respect to diesel fuel that is removed by the licensed permissive supplier at a terminal located in another state and that has this state as the destination state, a licensed permissive supplier shall:

(1) collect the state diesel fuel tax due to this state on the diesel fuel;

(2) waive any defense that this state lacks jurisdiction to require the supplier to collect the state diesel fuel tax due to this state on the diesel fuel under this subchapter;

(3) report and pay the state diesel fuel tax due on the diesel fuel in the same manner as if the removal had occurred at a terminal located in this state;

(4) keep records of the removal of the diesel fuel and

submit to audits concerning the diesel fuel as if the removal had occurred at a terminal located in this state; and

(5) report sales by the permissive supplier to a person who is not licensed in this state.

SECTION 41.43. Section 162.209, Tax Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) In addition to the information required by Subsection (a), an applicant for a license as a dealer must list on the application:

(1) the street address, city, county, and zip code of the location for which the applicant seeks a license to sell or dispense motor fuel at retail;

(2) the applicant's social security number, driver's license number, and federal employer identification number if the applicant is a natural person who is not licensed as a supplier, permissive supplier, or terminal operator; and

(3) if the applicant is a corporation, limited liability company, professional association, partnership, or other entity that is not licensed as a supplier, permissive supplier, or terminal operator and is not wholly owned by an entity that is licensed as a supplier, permissive supplier, or terminal operator, the physical address, mailing address, social security number, and driver's license number of:

(A) each natural person responsible for the purchase of motor fuel for sale by the applicant; and

(B) each officer, director, manager, member, shareholder, and partner of the applicant.

SECTION 41.44. Section 162.211(a), Tax Code, is amended to read as follows:

(a) The license issued to a supplier, permissive supplier, distributor, importer, terminal supplier, exporter, blender, dealer, motor fuel transporter, or dyed diesel fuel bonded user is permanent and is valid during the period the license holder has in force and effect the required bond or security and furnishes timely reports and supplements as required, or until the license is surrendered by the holder or canceled by the comptroller. The comptroller shall cancel a license under this subsection if a purchase, sale, or use of diesel fuel has not been reported by the license holder during the previous nine months.

SECTION 41.45. Section 162.212(a), Tax Code, is amended to read as follows:

(a) The comptroller shall determine the amount of security required of a supplier, permissive supplier, distributor, exporter, importer, dealer, blender, or dyed diesel fuel bonded user, taking into consideration the amount of tax that has or is expected to become due from the person, any past history of the person as a license holder under this chapter and its predecessor, and the necessity to protect this state against the failure to pay the tax as the tax becomes due.

SECTION 41.46. Section 162.213(a), Tax Code, is amended to read as follows:

(a) The comptroller, on or before December 20 of each year, shall make available to all license holders an alphabetical list of licensed suppliers, permissive suppliers, distributors, aviation

fuel dealers, importers, exporters, blenders, dealers, terminal operators, and dyed diesel fuel bonded users. A supplemental list of additions and deletions shall be made available to the license holders each month. A current and effective license or the list furnished by the comptroller is evidence of the validity of the license until the comptroller notifies license holders of a change in the status of a license holder.

SECTION 41.47. Sections 162.214(a) and (e), Tax Code, are amended to read as follows:

(a) Each [~~licensed~~] distributor and [~~licensed~~] importer shall remit to the supplier or permissive supplier, as applicable, the tax imposed by Section 162.201 for diesel fuel removed at a terminal rack. A licensed distributor or licensed importer may elect to defer payment of the tax to the supplier or permissive supplier until two days before the date the supplier or permissive supplier is required to remit the tax to this state. The distributor or importer shall pay the taxes by electronic funds transfer.

(e) A licensed distributor or licensed importer who makes timely payments of the state diesel fuel tax imposed by [~~under~~] this subchapter is entitled to retain an amount equal to 1.75 percent of the total state diesel fuel tax [~~taxes~~] to be paid to the supplier or permissive supplier to cover administrative expenses.

SECTION 41.48. Section 162.215(a), Tax Code, is amended to read as follows:

(a) Except as provided by Subsection (b), each person who is liable for the taxes [~~tax~~] imposed by this subchapter, a terminal

operator, a dealer, and a [~~licensed~~] distributor shall file a return on or before the 25th day of the month following the end of each calendar month.

SECTION 41.49. Sections 162.216(b), (c), (e), (g), and (h), Tax Code, are amended to read as follows:

(b) A distributor shall keep:

(1) a record showing the number of gallons of:

(A) all diesel fuel inventories on hand at the first of each month;

(B) all diesel fuel blended;

(C) all diesel fuel purchased or received, showing the name of the seller and the date of each purchase or receipt;

(D) all diesel fuel sold, distributed, or used, showing:

(i) the name of the purchaser;

(ii) the county or counties in this state;

(iii) the amount of county diesel fuel collected from the purchaser; and

(iv) the date of the sale, distribution, or use; and

(E) all diesel fuel lost by fire, theft, or accident;

(2) an itemized statement showing by load the number of gallons of all diesel fuel:

(A) received during the preceding calendar month for export and the location of the loading;

(B) sold, distributed, or used, showing:

(i) the name of the purchaser;

(ii) the destination county or counties in this state;

(iii) the amount of county diesel fuel tax collected from the purchaser; and

(iv) the date of the sale, distribution, or use;

(C) exported from this state by destination state or country; and

(D) [~~(C)~~] imported during the preceding calendar month, by state or country of origin; [~~and~~]

(3) for diesel fuel exported outside this state, proof of payment of tax to the destination state, in a form acceptable to the comptroller; and

(4) all shipping documents.

(c) An importer shall keep:

(1) a record showing the number of gallons of:

(A) all diesel fuel inventories on hand at the first of each month;

(B) all diesel fuel compounded or blended;

(C) all diesel fuel purchased or received, showing the name of the seller and the date of each purchase or receipt;

(D) all diesel fuel sold, distributed, or used, showing the name of the purchaser, the county in this state, and the date of the sale, distribution, or use; and

(E) all diesel fuel lost by fire, theft, or accident; and

(2) an itemized statement showing by load the number of gallons of all diesel fuel:

(A) received during the preceding calendar month for export and the location of the loading;

(B) sold, distributed, or used, showing the name of the purchaser, the county or counties in this state, and the date of sale, distribution, or use;

(C) exported from this state, by destination state or country; and

(D) [~~(C)~~] imported during the preceding calendar month, by state or country of origin.

(e) A blender shall keep a record showing the number of gallons of:

(1) all diesel fuel inventories on hand at the first of each month;

(2) all diesel fuel compounded or blended;

(3) all diesel fuel purchased or received, showing the name of the seller and the date of each purchase or receipt;

(4) all diesel fuel sold, distributed, or used, showing the name of the purchaser, the county in this state, and the date of the sale, distribution, or use; and

(5) all diesel fuel lost by fire, theft, or accident.

(g) A motor fuel transporter shall keep a complete and separate record of each intrastate and interstate transportation of diesel fuel, showing:

(1) the date of transportation;

(2) the name of the consignor and consignee;

(3) the method of transportation;

(4) the quantity and kind of diesel fuel transported;

(5) full data concerning the diversion of shipments, including the county in this state and the number of gallons diverted from interstate to intrastate and intrastate to interstate commerce; and

(6) the points of origin and destination, the county in this state, the number of gallons shipped or transported, the date, the consignee and the consignor, and the kind of diesel fuel that has been diverted.

(h) A dealer shall keep a record showing the number of gallons of:

(1) diesel fuel inventories on hand at the first of each month;

(2) all diesel fuel purchased or received, showing the name of the seller and the date of each purchase or receipt;

(3) all diesel fuel sold or used, showing the date of the sale or use; [~~and~~]

(4) all diesel fuel lost by fire, theft, or accident; and

(5) all shipping documents.

SECTION 41.50. Section 162.217(c), Tax Code, is amended to read as follows:

(c) A supplier or permissive supplier may take a credit for any state gasoline tax [~~taxes~~] that was [~~were~~] not remitted in a

previous period to the supplier or permissive supplier by a licensed distributor or licensed importer as required by Section 162.214. The supplier or permissive supplier is eligible to take this credit if the comptroller is notified of the default within 60 days after the default occurs. If a license holder pays to a supplier or permissive supplier the tax owed, but the payment occurs after the supplier or permissive supplier has taken a credit on its return, the supplier or permissive supplier shall remit the payment to the comptroller with the next monthly return after receipt of the tax, plus a penalty of 10 percent of the amount of unpaid taxes and interest at the rate provided by Section 111.060 beginning on the date the credit is taken.

SECTION 41.51. Section 162.219, Tax Code, is amended to read as follows:

Sec. 162.219. INFORMATION REQUIRED ON DISTRIBUTOR'S RETURN; PAYMENT OF TAXES AND ALLOWANCES. (a) The monthly return and supplements of each distributor shall contain for the period covered by the return:

(1) the number of net gallons of diesel fuel received by the distributor during the month, sorted by product code, seller, point of origin, destination state, carrier, and receipt date;

(2) the number of net gallons of diesel fuel removed at a terminal rack by the distributor during the month, sorted by product code, seller, terminal code, and carrier;

(3) the number of net gallons of diesel fuel removed by the distributor during the month for export, sorted by product

code, terminal code, bulk plant address, destination state, and carrier;

(4) the number of net gallons of diesel fuel removed by the distributor during the month from a terminal located in another state for conveyance to this state, as indicated on the shipping document for the diesel fuel, sorted by product code, seller, terminal code, bulk plant address, and carrier;

(5) the number of net gallons of diesel fuel the distributor sold during the month in transactions exempt under Section 162.204, dyed diesel fuel sold to a purchaser under a signed statement, or dyed diesel fuel sold to a dyed diesel fuel bonded user, sorted by product code and by the entity receiving the diesel fuel; [~~and~~]

(6) the number of net gallons delivered into a taxing county sorted by taxing county and purchaser; and

(7) any other information required by the comptroller.

(b) A distributor or importer who makes timely payments of the county tax imposed by this subchapter is entitled to retain an amount equal to two percent of the total county diesel fuel taxes remitted to the comptroller to cover administrative expenses.

SECTION 41.52. Section 162.224, Tax Code, is amended to read as follows:

Sec. 162.224. INFORMATION REQUIRED ON BLENDER'S RETURN. The monthly return and supplements of each blender shall contain for the period covered by the return:

(1) the number of net gallons of diesel fuel received by the blender during the month, sorted by product code, seller,

point of origin, carrier, and receipt date;

(2) the number of net gallons of product blended with diesel fuel during the month, sorted by product code, type of blending agent if no product code exists, seller, and carrier;

(3) the number of net gallons of blended diesel fuel sold during the month and the license number or name, [~~and~~] address, and county in this state of the entity receiving the blended diesel fuel; and

(4) any other information required by the comptroller.

SECTION 41.53. Subchapter C, Chapter 162, Tax Code, is amended by adding Section 162.2245 to read as follows:

Sec. 162.2245. INFORMATION REQUIRED ON DEALER'S RETURN. The monthly return and supplements of each dealer shall contain for the period covered by the return:

(1) the number of gallons of diesel fuel inventories on hand at the first of each month, sorted by product code;

(2) the number of gallons of diesel fuel received by the dealer during the month, sorted by seller;

(3) the number of gallons of diesel fuel inventories on hand at the end of each month; and

(4) any other information required by the comptroller.

SECTION 41.54. Sections 162.229(a) and (d), Tax Code, are amended to read as follows:

(a) A refund claim must be filed on a form provided by the comptroller, be supported by the original invoice issued by the seller, and contain:

(1) the stamped or preprinted name and address,

including county, of the seller;

(2) the name and address of the purchaser;

(3) the date of delivery of the diesel fuel;

(4) the date of the issuance of the invoice, if different from the date of fuel delivery;

(5) the number of gallons of diesel fuel delivered;

(6) the amount of state or county diesel fuel taxes paid [~~tax~~], either separately stated from the selling price or stated with a notation that both state and county taxes are included if both apply [~~the selling price includes the tax~~]; and

(7) the type of vehicle or equipment into which the fuel is delivered.

(d) A distributor or person who does not hold a license who files a valid refund claim with the comptroller shall be paid by a warrant issued by the comptroller. For purposes of this section, a distributor meets the requirement of filing a valid refund claim for state and county diesel fuel taxes if the distributor designates the gallons of diesel fuel sold or used that are the subject of the refund claim on the monthly report submitted by the distributor to the comptroller.

SECTION 41.55. Sections 162.402(a), (c), and (d), Tax Code, are amended to read as follows:

(a) A person forfeits to the state a civil penalty of not less than $25 and not more than $200 if the person:

(1) refuses to stop and permit the inspection and examination of a motor vehicle transporting or using motor fuel on demand of a peace officer or the comptroller;

(2) operates a motor vehicle in this state without a valid interstate trucker's license or a trip permit when the person is required to hold one of those licenses or permits;

(3) operates a liquefied gas-propelled motor vehicle that is required to be licensed in this state, including motor vehicles equipped with dual carburetion, and does not display a current liquefied gas tax decal or multistate fuels tax agreement decal;

(4) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle that does not display a current Texas liquefied gas tax decal;

(5) makes a taxable sale or delivery of liquefied gas without holding a valid dealer's license;

(6) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing out-of-state license plates;

(7) makes a delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing Texas license plates and no Texas liquefied gas tax decal, unless licensed under a multistate fuels tax agreement;

(8) transports gasoline or diesel fuel in any cargo tank that has a connection by pipe, tube, valve, or otherwise with the fuel injector or carburetor of, or with the fuel supply tank feeding the fuel injector or carburetor of, the motor vehicle transporting the product;

(9) sells or delivers gasoline or diesel fuel from any fuel supply tank connected with the fuel injector or carburetor of a

motor vehicle;

(10) owns or operates a motor vehicle for which reports or mileage records are required by this chapter without an operating odometer or other device in good working condition to record accurately the miles traveled;

(11) furnishes to a supplier a signed statement for purchasing diesel fuel tax-free and then uses the tax-free diesel fuel to operate a diesel-powered motor vehicle on a public highway;

(12) fails or refuses to comply with or violates a provision of this chapter;

(13) fails or refuses to comply with or violates a comptroller's rule for administering or enforcing this chapter;

(14) is an importer who does not obtain an import verification number when required by this chapter; [~~or~~]

(15) purchases motor fuel for export, on which the taxes [~~tax~~] imposed by this chapter have [~~has~~] not been paid, and subsequently diverts or causes the motor fuel to be diverted to a destination in this state or any other state or country other than the originally designated state or country without first obtaining a diversion number; or

(16) transports motor fuel to a county in this state other than the county stated on the shipping document.

(c) A person receiving motor fuel who accepts a shipping document that does not conform with the requirements of Section 162.004 or 162.016(a) is liable to this state for a civil penalty of $2,000 or five times the amount of the unpaid tax, whichever is greater, for each occurrence.

(d) A person operating a bulk plant or terminal who issues a shipping document that does not conform with the requirements of Section 162.004 or 162.016(a) is liable to this state for a civil penalty of $2,000 or five times the amount of the unpaid tax, whichever is greater, for each occurrence.

SECTION 41.56. Section 162.403, Tax Code, is amended to read as follows:

Sec. 162.403. CRIMINAL OFFENSES. Except as provided by Section 162.404, a person commits an offense if the person:

(1) refuses to stop and permit the inspection and examination of a motor vehicle transporting or using motor fuel on the demand of a peace officer or the comptroller;

(2) is required to hold a valid trip permit or interstate trucker's license, but operates a motor vehicle in this state without a valid trip permit or interstate trucker's license;

(3) operates a liquefied gas-propelled motor vehicle that is required to be licensed in this state, including a motor vehicle equipped with dual carburetion, and does not display a current liquefied gas tax decal or multistate fuels tax agreement decal;

(4) transports gasoline or diesel fuel in any cargo tank that has a connection by pipe, tube, valve, or otherwise with the fuel injector or carburetor or with the fuel supply tank feeding the fuel injector or carburetor of the motor vehicle transporting the product;

(5) sells or delivers gasoline or diesel fuel from a fuel supply tank that is connected with the fuel injector or

carburetor of a motor vehicle;

(6) owns or operates a motor vehicle for which reports or mileage records are required by this chapter without an operating odometer or other device in good working condition to record accurately the miles traveled;

(7) sells or delivers dyed diesel fuel for the operation of a motor vehicle on a public highway;

(8) uses dyed diesel fuel for the operation of a motor vehicle on a public highway except as allowed under Section 162.235;

(9) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle that does not display a current Texas liquefied gas tax decal;

(10) makes a sale or delivery of liquefied gas on which the person knows the tax is required to be collected, if at the time the sale is made the person does not hold a valid dealer's license;

(11) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing out-of-state license plates;

(12) makes a delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing Texas license plates and no Texas liquefied gas tax decal, unless licensed under a multistate fuels tax agreement;

(13) refuses to permit the comptroller or the attorney general to inspect, examine, or audit a book or record required to be kept by a license holder, other user, or any person required to hold a license under this chapter;

(14) refuses to permit the comptroller or the attorney general to inspect or examine any plant, equipment, materials, or premises where motor fuel is produced, processed, blended, stored, sold, delivered, or used;

(15) refuses to permit the comptroller, the attorney general, an employee of either of those officials, a peace officer, an employee of the Texas Commission on Environmental Quality, or an employee of the Department of Agriculture to measure or gauge the contents of or take samples from a storage tank or container on premises where motor fuel is produced, processed, blended, stored, sold, delivered, or used;

(16) is a license holder, a person required to be licensed, or another user and fails or refuses to make or deliver to the comptroller a report required by this chapter to be made and delivered to the comptroller;

(17) is an importer who does not obtain an import verification number when required by this chapter;

(18) purchases motor fuel for export, on which the taxes [~~tax~~] imposed by this chapter have [~~has~~] not been paid, and subsequently diverts or causes the motor fuel to be diverted to a destination in this state or any other state or country other than the originally designated state or country without first obtaining a diversion number;

(18-a) transports motor fuel to a county in this state other than the county stated on the shipping document;

(19) conceals motor fuel with the intent of engaging in any conduct proscribed by this chapter or refuses to make sales

of motor fuel on the volume-corrected basis prescribed by this chapter;

(20) refuses, while transporting motor fuel, to stop the motor vehicle the person is operating when called on to do so by a person authorized to stop the motor vehicle;

(21) refuses to surrender a motor vehicle and cargo for impoundment after being ordered to do so by a person authorized to impound the motor vehicle and cargo;

(22) mutilates, destroys, or secretes a book or record required by this chapter to be kept by a license holder, other user, or person required to hold a license under this chapter;

(23) is a license holder, other user, or other person required to hold a license under this chapter, or the agent or employee of one of those persons, and makes a false entry or fails to make an entry in the books and records required under this chapter to be made by the person or fails to retain a document as required by this chapter;

(24) transports in any manner motor fuel under a false cargo manifest or shipping document, or transports in any manner motor fuel to a location without delivering at the same time a shipping document relating to that shipment;

(25) engages in a motor fuel transaction that requires that the person have a license under this chapter without then and there holding the required license;

(26) makes and delivers to the comptroller a report required under this chapter to be made and delivered to the comptroller, if the report contains false information;

(27) forges, falsifies, or alters an invoice prescribed by law;

(28) makes any statement, knowing said statement to be false, in a claim for a tax refund filed with the comptroller;

(29) furnishes to a supplier a signed statement for purchasing diesel fuel tax-free and then uses the tax-free diesel fuel to operate a diesel-powered motor vehicle on a public highway;

(30) holds an aviation fuel dealer's license and makes a taxable sale or use of any gasoline or diesel fuel;

(31) fails to remit any tax funds collected by a license holder, another user, or any other person required to hold a license under this chapter;

(32) makes a sale of diesel fuel tax-free into a storage facility of a person who:

(A) is not licensed as a distributor, as an aviation fuel dealer, or as a dyed diesel fuel bonded user; or

(B) does not furnish to the licensed supplier or distributor a signed statement prescribed in Section 162.206;

(33) makes a sale of gasoline tax-free to any person who is not licensed as an aviation fuel dealer;

(34) is a dealer who purchases any motor fuel tax-free when not authorized to make a tax-free purchase under this chapter;

(35) is a dealer who purchases motor fuel with the intent to evade any tax imposed by this chapter or who accepts a delivery of motor fuel by any means and does not at the same time accept or receive a shipping document relating to the delivery;

(36) transports motor fuel for which a cargo manifest

or shipping document is required to be carried without possessing or exhibiting on demand by an officer authorized to make the demand a cargo manifest or shipping document containing the information required to be shown on the manifest or shipping document;

(37) imports, sells, uses, blends, distributes, or stores motor fuel within this state on which a tax [~~the taxes~~] imposed by this chapter is [~~are~~] owed but has [~~have~~] not been first paid to or reported by a license holder, another user, or any other person required to hold a license under this chapter;

(38) blends products together to produce a blended fuel that is offered for sale, sold, or used and that expands the volume of the original product to evade paying applicable motor fuel taxes; or

(39) evades or attempts to evade in any manner a tax imposed on motor fuel by this chapter.

SECTION 41.57. Section 162.405(d), Tax Code, is amended to read as follows:

(d) An offense under Section 162.403(7), (18-a), (22), (23), (24), (25), (26), (27), (28), or (29) is a felony of the third degree.

SECTION 41.58. Subsection (a), Section 502.003, Transportation Code, is amended to read as follows:

(a) Except as provided by Subsection (b) and by Chapter 180, Transportation Code, a political subdivision of this state may not require an owner of a motor vehicle to:

(1) register the vehicle;

(2) pay a motor vehicle registration fee; or

(3) pay an occupation tax or license fee in connection with a motor vehicle.

SECTION 41.59. (a) The comptroller of public accounts' duties and responsibilities for the collection, administration, and enforcement of a county motor fuels tax as authorized by Chapter 180, Transportation Code, as added by this Act, are specifically contingent on the comptroller receiving sufficient funding in advance of the effective date of any motor fuels tax imposed by a county to adequately cover the comptroller's initial implementation costs.

(b) The legislature intends that the initial implementation costs be funded through an interlocal agreement between the comptroller of public accounts and one or more local entities. The comptroller's duties and responsibilities under this Act are specifically contingent on the approval and execution of this agreement by the parties in a manner that results in funding being available to the comptroller on or before September 1, 2009. If the comptroller does not receive funding in a timely manner as determined by the comptroller, the comptroller is not required to enforce the provisions of this Act related to a county motor fuels tax.

SECTION 41.60. (a) A county may not impose a motor fuels tax under Chapter 180, Transportation Code, as added by this Act, before the effective date of rules adopted by the comptroller of public accounts under Chapter 180, Transportation Code, as added by this Act.

(b) The comptroller of public accounts shall adopt the rules

required by Chapter 180, Transportation Code, as added by this Act, before the first anniversary of the date on which an agreement described by Section 41.59 of this Act is entered into.

SECTION 41.61. (a) Unless otherwise authorized by the constitution of this state, money collected from a county motor fuels tax authorized by this Act may be used only for acquiring rights-of-way, for constructing, maintaining, and policing public roadways, and for administering laws related to the supervision of traffic and safety on those roads.

(b) If the constitution of this state does not authorize the use of money collected under the county motor fuel tax authorized by this Act for transportation uses other than those described by Subsection (a) of this section, the county shall deposit such money into an account separate from the money collected under other provisions of Chapter 616, Local Government Code, as added by this Act, and may use the money only for the purposes described by Subsection (a) of this section.

(c) If the constitution of this state requires that one-fourth of the county motor fuels tax authorized by this Act be allocated to the available school fund, the county shall deposit such money into an account separate from the money collected under other provisions of this Act and shall allocate the money to the comptroller of public accounts for deposit in the state treasury for the purpose required by the constitution.

SECTION 41.62. (a) This section and Section ---- of this Act take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39,

Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this section and Section ---- of this Act take effect August 31, 2009.

(b) Except as provided by Subsection (a) of this section, this article takes effect September 1, 2009.

ARTICLE 42. CONFLICTS WITH FEDERAL LAW

SECTION 42.01. (a) If the Texas Transportation Commission or the Texas Department of Transportation has reason to believe that a provision of law as added or amended by this Act is in conflict with a federal statute, rule, or regulation that is applicable to the commission, that department, or an activity of the commission or that department, the executive director of that department shall immediately notify the attorney general and request a determination by the attorney general as to whether the provision of law as added or amended by this Act is in conflict with the federal statute, rule, or regulation. The request for a determination must be in writing and accompanied by a copy of the applicable provision of state law, the applicable federal statute, rule, or regulation, and any other information pertinent to the issue.

(b) As soon as practicable, but not later than the 45th day after the date the attorney general receives a request for a determination under Subsection (a) of this section, the attorney general shall render a written decision determining the question presented. The attorney general shall send a copy to the executive director of the Texas Department of Transportation and to the presiding officer of the Transportation Legislative Oversight

Committee.

(c) If the attorney general's determination is that the provision of state law is in conflict with the federal statute, rule, or regulation, the Texas Department of Transportation:

(1) is not required to comply with the provision of state law as added or amended by this Act, but only to the extent of the conflict; and

(2) if applicable, comply with the provision of state law as it existed immediately before the effective date of this Act.

(d) For purposes of the application of Subsection (c) of this section, the applicable provision of state law as it existed immediately before the effective date of this Act is continued in effect.

ARTICLE 43. TRANSFERS OF CERTAIN POWERS, DUTIES, OBLIGATIONS, AND RIGHTS OF ACTION

SECTION 43.01. (a) All powers, duties, obligations, and rights of action of the Motor Vehicle Division and the Vehicle Titles and Registration Division of the Texas Department of Transportation are transferred to the Texas Department of Motor Vehicles and all powers, duties, obligations, and rights of action of the Texas Transportation Commission in connection or associated with those divisions of the Texas Department of Transportation are transferred to the board of the Texas Department of Motor Vehicles on November 1, 2009.

(b) The powers, duties, obligations, and rights of action of the portion of the Motor Carrier Division of the Texas Department of Transportation that is responsible for motor carrier registration

and the enforcement of Subtitle F, Title 7, Transportation Code, are transferred to the Texas Department of Motor Vehicles and the associated powers, duties, obligations, and rights of action of the Texas Transportation Commission are transferred to the board of the Texas Department of Motor Vehicles on November 1, 2009.

(c) In connection with the transfers required by Subsections (a) and (b) of this section, the personnel, furniture, computers, other property and equipment, files, and related materials used by the Motor Vehicle Division, the Vehicle Titles and Registration Division, or the portion of the Motor Carrier Division of the Texas Department of Transportation described in Subsection (b) of this section are transferred to the Texas Department of Motor Vehicles.

(d) The Texas Department of Motor Vehicles shall continue any proceeding involving the Motor Vehicle Division, the Vehicle Titles and Registration Division, or the portion of the Motor Carrier Division of the Texas Department of Transportation described in Subsection (b) of this section that was brought before the effective date of this Act in accordance with the law in effect on the date the proceeding was brought, and the former law is continued in effect for that purpose.

(e) A certificate, license, document, permit, registration, or other authorization issued by the Motor Vehicle Division or the Vehicle Titles and Registration Division of the Texas Department of Transportation or a registration issued by the Motor Carrier Division of the Texas Department of Transportation that is in effect on the effective date of this Act remains valid for the

period for which it was issued unless suspended or revoked by the Texas Department of Motor Vehicles.

(f) A rule adopted by the Texas Transportation Commission or the executive director of the Texas Department of Transportation in connection with or relating to the Motor Vehicle Division, the Vehicle Titles and Registration Division, or the portion of the Motor Carrier Division of the Texas Department of Transportation described in Subsection (b) of this section continues in effect until it is amended or repealed by the board of the Texas Department of Motor Vehicles or the Texas Department of Motor Vehicles, as applicable.

(g) The unobligated and unexpended balance of any appropriations made to the Texas Department of Transportation in connection with or relating to the Motor Vehicle Division, the Vehicle Titles and Registration Division, or the portion of the Motor Carrier Division of the Texas Department of Transportation described in Subsection (b) of this section for the state fiscal biennium ending August 31, 2009, is transferred and reappropriated to the Texas Department of Motor Vehicles for the purpose of implementing the powers, duties, obligations, and rights of action transferred to that department under Subsections (a) and (b) of this section.

(h) The Texas Department of Transportation shall continue, as necessary, to perform the duties and functions being transferred to the Texas Department of Motor Vehicles until the transfer of agency duties and functions is complete.

SECTION 43.02. (a) In connection with the establishment by

this Act of the Automobile Burglary and Theft Prevention Authority in the Texas Department of Motor Vehicles and with the transfer by this Act of the duty to provide personnel and services to the Automobile Burglary and Theft Prevention Authority from the Texas Department of Transportation to the Texas Department of Motor Vehicles, the personnel, furniture, computers, other property and equipment, files, and related materials used by the Automobile Burglary and Theft Prevention Authority are transferred to the Texas Department of Motor Vehicles.

(b) The unobligated and unexpended balance of any appropriations made to the Texas Department of Transportation in connection with or relating to the Automobile Burglary and Theft Prevention Authority for the state fiscal biennium ending August 31, 2009, is transferred and reappropriated to the Texas Department of Motor Vehicles for the purpose of allowing the authority to continue to exercise its powers, duties, and obligations under the auspices of that department.

SECTION 43.03. (a) In addition to the positions of the Texas Department of Transportation assigned to the Vehicle Titles and Registration Division, Motor Vehicle Division, Motor Carrier Division, and Automobile Burglary and Theft Prevention Authority Division that are transferred to the Texas Department of Motor Vehicles, it is estimated that 75 other full-time equivalent employee positions of the Texas Department of Transportation primarily support the transferred divisions and, subject to this section, those positions are also transferred to the Texas Department of Motor Vehicles. The number of positions transferred

under this subsection may be modified by agreement of the two agencies in a memorandum of understanding.

(b) If in another Act of the 81st Legislature, Regular Session, 2009, the legislature establishes a maximum number of full-time equivalent employee positions for the Texas Department of Motor Vehicles, the number of positions transferred under Subsection (a) of this section may not result in a number of full-time equivalent employee positions of that department that exceeds the maximum.

(c) When filling a position described by Subsection (a) of this section, the Texas Department of Motor Vehicles shall give first consideration to an applicant who, as of September 1, 2009, was a full-time employee of the Texas Department of Transportation and primarily supported one or more of the transferred divisions.

ARTICLE 44. APPOINTMENT OF BOARD

SECTION 44.01. Not later than October 1, 2009, the governor shall appoint the members of the board of the Texas Department of Motor Vehicles in accordance with Subchapter B, Chapter 1001, Transportation Code, as added by this Act.

ARTICLE 45. MEMORANDUM OF UNDERSTANDING

SECTION 45.01. (a) The board of the Texas Department of Motor Vehicles and the Texas Transportation Commission shall enter into or revise a joint memorandum of understanding to coordinate the Texas Department of Motor Vehicles' and the Texas Department of Transportation's information systems to allow for the sharing of information so that each department may effectively and efficiently perform the functions and duties assigned to it. Neither the Texas

Department of Motor Vehicles or the Texas Department of Transportation may impose or collect a fee or charge in connection with the sharing of information under a joint memorandum of understanding entered into or revised under this section.

(b) The Texas Department of Motor Vehicles and the Texas Department of Transportation shall implement the joint memorandum of understanding using existing personnel and resources.

(c) Otherwise confidential information shared under the memorandum of understanding remains subject to the same confidentiality requirements and legal restrictions on access to the information that are imposed by law on the department that originally obtained or collected the information.

(d) Information may be shared under the memorandum of understanding without the consent of the person who is the subject of the information.

(e) The memorandum of understanding required by Subsection (a) of this section must be entered into or revised at the first official meeting of the board members of the Texas Department of Motor Vehicles.

SECTION 45.02. (a) In addition to the memorandum of understanding required by Section 45.01 of this article, the board of the Texas Department of Motor Vehicles and the Texas Transportation Commission may enter into or revise one or more other joint memoranda of understanding necessary to effectuate the transfer of the powers and duties of the Texas Department of Transportation to the Texas Department of Motor Vehicles under this Act. A memorandum of understanding may include an agreement for the

provision of office space, utilities, and other facility services; the need for full-time equivalent positions of the Texas Department of Transportation to provide support services in addition to the positions transferred to the Texas Department of Motor Vehicles under Section 43.01 of this Act; support services; and the transfer of information technology as necessary or appropriate to effectuate the transfer of the powers and duties of the Texas Department of Transportation to the Texas Department of Motor Vehicles.

(b) Sections 45.01(b), (c), and (d) of this article apply to a memorandum of understanding entered into or revised under Subsection (a) of this section.

ARTICLE 46. DEPARTMENT OF MOTOR VEHICLES TRANSITION TEAM

SECTION 46.01. (a) The Texas Department of Transportation shall establish a Department of Motor Vehicles Transition Team to plan for and make recommendations regarding the transfer of obligations, property, full-time equivalent positions, rights, powers, and duties from the Texas Department of Transportation to the Texas Department of Motor Vehicles. The transition team must include the division directors from the Motor Vehicle Division, the Vehicle Titles and Registration Division, and the Motor Carrier Division and the Assistant Executive Director for Support Operations.

(b) Not later than October 1, 2009, the transition team shall report on and make recommendations to the board of the Texas Department of Motor Vehicles, the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the senate and house committees with

jurisdiction over transportation regarding the transfer of obligations, property, full-time equivalent positions, rights, powers, and duties from the Texas Department of Transportation to the Texas Department of Motor Vehicles.

ARTICLE 47. FINANCIAL AUDIT

SECTION 47.01. (a) As soon as practicable after the effective date of this Act, the office of the state auditor shall conduct an initial financial audit to establish financial benchmarks for the Texas Department of Motor Vehicles on its overall status and condition in relation to funds on hand, equipment and other assets, pending matters, and other issues considered appropriate by the office of the state auditor.

(b) As soon as practicable after the completion of the audit required by Subsection (a) of this section, the results of the audit shall be reported by the office of the state auditor to the board of the Texas Department of Motor Vehicles and to the Texas Transportation Commission. The office of the state auditor shall also provide a copy of the audit to the board and the commission.

ARTICLE 48. EFFECTIVE DATE

SECTION 48.01. This Act takes effect September 1, 2009.

ADOPTED

MAY 25 2009

Secretary of the Senate

FLOOR AMENDMENT NO. 1 BY: Glenn Hegar

Amend C.S.H.B. No. 300 (Senate committee printing) as follows:

(1) In SECTION 1.18 of the bill, added Section 223.0411(a), Transportation Code (page 7, lines 40 and 41), strike added Subdivisions (3) and (4) and substitute the following:

(3) the Associated General Contractors of Texas; and

(4) the Texas Consultant Engineering Council.

(2) In SECTION 1.24 of the bill, amended Section 228.055(b), Transportation Code (page 9, line 55), strike "30th" and substitute "90th".

(3) In SECTION 2.06 of the bill, added Section 201.808, Transportation Code (page 19, lines 9 through 16), strike added Subsection (g) and substitute the following:

(g) The transportation project and performance reporting system established under Subsection (b) must include:

(1) information relating to each source of the department's funds, including the identification of revenue from each comprehensive development agreement or toll project; and

(2) information relating to all expenditures of the department by type of expenditure, as described in the comptroller's statewide accounting system, and reported for all applicable organizational groups and categories, including:

(A) the entire department;

(B) each department division;

(C) each department district; and

(D) each program funding category for project expenses.

(4) In SECTION 2.10 of the bill, added Section 472.0331(b), Transportation Code (page 25, line 3), strike "must" and substitute

"may".

(5) In SECTION 2.12 of the bill, added Section 472.153(a), Transportation Code (page 25, line 52), strike "must" and substitute "may".

(6) In SECTION 3.01 of the bill, added Section 201.605(i), Transportation Code (page 27), strike lines 34 through 36 and substitute the following:

(i) The commission by rule shall provide for notice to owners of adjoining property and affected local governments and public officials and provide an opportunity for comment on a state highway project

(7) In SECTION 4.03 of the bill, amended Section 223.201(a), Transportation Code (page 30), strike lines 29 through 32 and substitute the following:

operate, extend, or expand a state highway[~~:~~

[~~(1) toll project;~~

[~~(2) facility or a combination of facilities on the Trans-Texas Corridor;~~

(8) Add the following appropriately numbered SECTION to ARTICLE 4 of the bill and renumber subsequent SECTIONS of that article accordingly:

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

Sec. 223.2011. COMPREHENSIVE DEVELOPMENT AGREEMENTS IN CERTAIN COUNTIES FOR CERTAIN PROJECTS. (a) In this section, "region" means a county with a population of 3.3 million or more and the counties adjacent to that county.

(b) This section applies only to:

(1) the portion of IH 69 and any successor project located in:

(A) a county with a population of 3.3 million or

more; or

(B) any adjacent county;

(2) a comprehensive development agreement or related agreement entered into by the department in connection with the project under Subdivision (1); and

(3) a toll project or other project in the region the revenues or assets of which are to be used in connection with the financing of a project under Subdivision (1).

(c) Any payments, project savings, refinancing dividends, and any other revenue, including surplus revenue, received by the commission or the department under the comprehensive development agreement or any related agreement, and any revenue attributable to any toll project or other project in the region described by Subsection (b)(3), may be used only to pay the costs or to finance the construction, maintenance, or operation of transportation projects or air quality projects in the region.

(d) The private entity that is a party to the comprehensive development agreement does not have any right under the agreement or any related agreement that conflicts with, infringes on, or impairs the rights of any county with respect to the development or operation of any project under Section 228.011 or 228.0111 or other applicable law that provides for a process under which the county has the first option to develop and operate a project.

(e) A comprehensive development agreement and any related agreement that includes a provision that grants a private entity the right to finance and develop a toll project in the region or to collect and receive toll revenue from a toll project in the region is not effective unless the agreement complies with this section.

(9) In SECTION 4.06 of the bill, amended Section 223.208(e), Transportation Code (page 31, line 14), strike "or Section 227.023(c)" and substitute "[~~or Section 227.023(c)~~]".

(10) Immediately after SECTION 4.10 of the bill (page 33, between lines 2 and 3) insert the following:

SECTION 4.11. The change in law made by this article to Section 223.201(a), Transportation Code, does not apply to a comprehensive development agreement entered into by the Texas Department of Transportation under Section 227.023, Transportation Code, before the effective date of this Act. A comprehensive development agreement entered into under Section 227.023, Transportation Code, before the effective date of this Act is governed by the law in effect on the date the agreement was entered into, and the former law is continued in effect for that purpose.

(11) In SECTION 7.01 of the bill, added Section 1003.002(a), Transportation Code (page 45, line 42), strike "or the department".

(12) Between ARTICLES 14 and 16 of the bill (page 69, between lines 3 and 4) insert the following:

ARTICLE 15. TEXAS MOBILITY FUND

SECTION 15.01. Sections 201.943(b), (e), and (f), Transportation Code, are amended to read as follows:

(b) Obligations must be secured by and payable from a pledge of and lien on all or part of the money in the fund, including revenues of this state that are dedicated or appropriated for deposit to the fund. Obligations may be additionally secured by and payable from credit agreements. The commission may pay amounts due on the obligations from discretionary money available to it that is not dedicated to or appropriated for other specific purposes.

(e) Long-term obligations in the amount proposed to be issued by the commission may not be issued unless the comptroller projects in a comptroller's certification that the amount of money dedicated to the fund pursuant to Section 49-k(e), Article III, Texas Constitution, and required to be on deposit in the fund pursuant to Section 49-k(f), Article III, Texas Constitution,

together with any other money or revenue that the commission pledges or otherwise commits for those purposes, including receipts from credit agreements and money received or to be received from the federal government, and the investment earnings on [~~that~~] money in the fund, during each year of the period during which the proposed obligations are scheduled to be outstanding will be equal to at least 110 percent of the requirements to pay the principal of and interest on the proposed long-term obligations during that year.

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

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

(2) projects that the amount of money dedicated to the fund pursuant to Section 49-k(e), Article III, Texas Constitution, and required to be on deposit in the fund pursuant to Section 49-k(f), Article III, Texas Constitution, together with any other money or revenue that the commission pledges or otherwise commits for those purposes, including receipts from credit agreements and money received or to be received from the federal government, and the investment earnings on [~~that~~] money in the fund, during each year of the assumed 20-year period will be equal to at least 110 percent of the requirements to pay the principal of and interest on the proposed refunding obligations during that year.

SECTION 15.02. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2009.

(13) In ARTICLE 19 of the bill, strike SECTION 19.07 (page 83, lines 42 through 58) and renumber subsequent SECTIONS of that article accordingly.

(14) In the recital to SECTION 19.09 of the bill (page 83, line 67), strike ", (e),".

(15) In SECTION 19.09 of the bill, amended Section 223.208, Transportation Code (page 84, lines 6 through 22), strike amended Subsection (e).

(16) In SECTION 26.07(a) of the bill (page 101, line 42), strike "Act" and substitute "article".

(17) In SECTION 26.07(b) of the bill (page 102, line 7), strike "Act" and substitute "article".

(18) In SECTION 26.08 of the bill (page 102, lines 9, 11, and 13), strike "Act" and substitute "article".

(19) Immediately after SECTION 26.08 of the bill (page 102, between lines 14 and 15), insert the following:

SECTION 26.09. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2009.

(20) In SECTION 27.08 of the bill (page 109, lines 36, 38, and 40), strike "Act" and substitute "article".

(21) Immediately after SECTION 27.08 of the bill (page 109, between lines 41 and 42), insert the following:

SECTION 27.09. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2009.

(22) In SECTION 28.02(a) of the bill (page 110, line 6),

strike "Act" and substitute "article".

(23) In Section 28.02(b) of the bill (page 110, line 24), strike "Act" and substitute "article".

(24) Immediately after SECTION 28.02 of the bill (page 110, between lines 25 and 26), insert the following:

SECTION 28.03. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2009.

(25) Immediately after SECTION 30.01 of the bill (page 113, between lines 23 and 24), insert the following:

SECTION 30.02. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2009.

(26) In SECTION 31.03 of the bill (page 114, lines 18, 20, and 21), strike "Act" and substitute "article".

(27) Immediately after SECTION 31.03 of the bill (page 114, between lines 22 and 23), insert the following:

SECTION 31.04. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2009.

ADOPTED

MAY 25 2009

Secretary of the Senate

FLOOR AMENDMENT NO. 2 BY: Hegar

Amend C.S.H.B. No. 300 (Senate committee printing) as follows:

(1) In ARTICLE 2 of the bill, add the following SECTIONS, appropriately numbered, and renumber existing SECTIONS of that article accordingly:

SECTION 2.__. Section 201.710(c), Transportation Code, is amended to read as follows:

(c) The department shall include projects related to ports of entry in its project development program, or its successor document [~~unified transportation program or any successor to that program~~].

SECTION 2.__. Section 227.034(a), Transportation Code, is amended to read as follows:

(a) A contract for the acquisition, construction, maintenance, or operation of a facility on the Trans-Texas Corridor may not contain a provision that limits or prohibits construction or operation of a highway or other transportation project that is:

(1) included in the project development program, or its successor document, [~~unified transportation program~~] of the department in effect at the time the contract is executed;

(2) a project of a local government; or

(3) constructed or operated for the safety of pedestrian or vehicular traffic.

SECTION 2.__. Section 228.0055(c), Transportation Code, is amended to read as follows:

(c) The commission or the department may not:

(1) revise the formula as provided in the department's project development [~~unified transportation~~] program, or its successor document, in a manner that results in a decrease of a

department district's allocation because of a payment under Subsection (a); or

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

SECTION 2.__. Section 228.006(b), Transportation Code, is amended to read as follows:

(b) The commission may not revise the formula as provided in the department's project development [~~unified transportation~~] program, or its successor document, in a manner that results in a decrease of a district's allocation because of a payment under Subsection (a).

SECTION 2.__. Section 228.117, Transportation Code, is amended to read as follows:

Sec. 228.117. FUNDING FOR DEPARTMENT DISTRICT. The commission may not revise the formula as provided in the department's project development [~~unified transportation~~] program, or its successor document, in a manner that results in a decrease of a district's allocation because revenue bonds are issued for a toll project located within the department district.

SECTION 2.__. Section 362.902, Transportation Code, is amended to read as follows:

Sec. 362.902. INCLUSION OF TOLL PROJECTS IN PROJECT DEVELOPMENT [~~UNIFIED TRANSPORTATION~~] PROGRAM. The department shall adopt and include in the project development [~~unified transportation~~] program, or its successor document, of the department a list of transportation projects in each department district that the department considers to be eligible and feasible for tolling. A transportation project that is included in the list is not required to be operated as a toll project.

SECTION 2.__. Section 366.407(c), Transportation Code, is

amended to read as follows:

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

(2) In SECTION 19.04 of the bill, amended Section 201.616(a), Transportation Code (page 83, line 2), strike "unified transportation program" and substitute "project development program, or its successor document, [~~unified transportation program~~]".

(3) In SECTION 19.09 of the bill, amended Section 223.208(c), Transportation Code (page 84, line 3), strike "unified transportation program" and substitute "project development program, or its successor document, [~~unified transportation program~~]".

(4) In SECTION 31.02 of the bill, amended Section 228.012(d), Transportation Code (page 114, line 5), strike "unified transportation program" and substitute "project development [~~unified transportation~~]".

ADOPTED
as amended
MAY 05 2009
Secretary of the Senate

FLOOR AMENDMENT NO. 3 BY:

Amend C.S.H.B. No. 300 (Senate committee printing) in Article 1 of the bill by adding the following SECTION to that article, appropriately numbered, and renumbering subsequent SECTIONS of that article accordingly.

SECTION 1.___. Section 21.042, Property Code, is amended by adding Subsection (h) to read as follows:

(h) This subsection applies only in connection with a portion of a tract or parcel of real property that is condemned in connection with a highway or other transportation project of the Texas Department of Transportation. In estimating injury or benefit under Subsection (c), the special commissioners shall consider an injury or benefit that is peculiar to the property owner and that relates to the property owner's ownership, use, or enjoyment of the particular parcel of real property, including a material impairment of direct access on or off the remaining property that affects the market value of the remaining property, but they may not consider an injury or benefit that the property owner experiences in common with the general community, including circuity of travel and diversion of traffic. In this subsection, "direct access" means ingress and egress on or off a public road, street, or highway at a location or locations where the remaining property adjoins that road, street, or highway.

1157

ADOPTED

MAY 25 2009

Secretary of the Senate

FLOOR AMENDMENT NO. 1 BY: Estes Duncan

Amend Hegar amendment 2 to C.S.H.B. No. 300 by adding the following to the amendment:

Amend C.S.H.B. No. 300 (Senate committee printing) in Article 1 of the bill by adding the following SECTION to that article, appropriately numbered, and renumbering subsequent SECTIONS of that article accordingly.

SECTION 1.___. Section 21.042, Property Code, is amended by adding Subsection (i) to read as follows:

(i) This subsection applies only in connection with a portion of a tract or parcel of real property that is condemned in connection with a highway or other transportation project of a political subdivision or governmental entity of this state other than the Texas Department of Transportation. In estimating injury or benefit under Subsection (c), the special commissioners shall consider an injury or benefit that is peculiar to the property owner and that relates to the property owner's ownership, use, or enjoyment of the particular parcel of real property, including a material impairment of direct access on or off the remaining property that affects the market value of the remaining property, but they may not consider an injury or benefit that the property owner experiences in common with the general community, including circuity of travel and diversion of traffic. In this subsection, "direct access" means ingress and egress on or off a public road, street, or highway at a location or locations where the remaining property adjoins that road, street, or highway.

FLOOR AMENDMENT NO. 1 ADOPTED MAY 25 2009 BY Wendy R Davis

Secretary of the Senate

Amend the proposed CSHB 3906 Article 27, Section 27.08, p.94, by striking 27.08 and substituting the following:

Section 27.08. The repeal of Section 228.0111, Transportation Code, by this Act does not affect any project described in Section 373.002(b), Transportation Code, as added by this Act. A project described in that subsection is governed by Section 228.0111, Transportation Code, as it existed immediately before the effective date of this Act, except for the substitution of "40 years" for "30 years" in subsection 228.0111 (p)(3), Transportation Code, and that law, as hereby amended, is continued in effect for that purpose.

1159

ADOPTED

MAY 2 5 2009

Secretary of the Senate

FLOOR AMENDMENT NO. 8 BY: Wentworth

Amend C.S.H.B. No. 300 (Senate committee printing) by adding the following ARTICLE to the bill, appropriately numbered, and renumbering subsequent ARTICLES accordingly:

ARTICLE ___. RELOCATION OF UTILITY FACILITIES

SECTION ___.01. Subchapter E, Chapter 203, Transportation Code, is amended by adding Section 203.0923 to read as follows:

Sec. 203.0923. SPECIAL FUNDS FOR RELOCATION OF UTILITY FACILITIES. (a) In this section, "utility" means a utility as defined by Section 203.091.

~~(1) a publicly, privately, or cooperatively owned~~ telecommunications utility subject to the authority of the Public Utility Commission of Texas;

(2) a telecommunications provider, as defined by Section 51.002, Utilities Code;

(3) a video service provider, as defined by Section 66.002, Utilities Code; or

~~(4) a cable operator, as defined by 47 U.S.C. Section 522.~~

(b) If the construction, reconstruction, maintenance, improvement, or repair of a road, highway, or bridge that is funded in any part by federal funds provided under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) requires the relocation of a utility facility, the department shall:

(1) reimburse the utility owning or operating the facility for the expense of the relocation in the proportions described by Sections 203.092 and 227.029 using funds provided under the American Recovery and Reinvestment Act; or

(2) if Sections 203.092 and 227.029 do not provide for reimbursement to the utility, subject to Subsection (b-1), from federal funds provided under the American Recovery and Reinvestment

Act, share the expense of that relocation equally with the utility that owns and operates the facility.

(b-1) The maximum amount of federal funds the department may spend for the relocation of utility facilities under Subsection (b)(2) is $25 million.

(c) The amount of a reimbursement for a relocation of a utility facility may not exceed the actual expense incurred by the utility in the complete or partial relocation of the facility less any salvage value of the existing facility.

(d) The department by rule shall establish a procedure for making reimbursements under this section and shall notify affected utilities of that procedure.

(e) This section expires December 31, 2012.

ADOPTED

MAY 2 5 2009

Secretary of the Senate

FLOOR AMENDMENT NO. 9 BY: Carona

Amend C.S.H.B. No. 300 (Senate committee printing) by adding the following ARTICLE to the bill and renumbering subsequent ARTICLES accordingly:

ARTICLE __. CHOOSE LIFE LICENSE PLATES; CHOOSE LIFE ACCOUNT; CHOOSE LIFE ADVISORY COMMITTEE

SECTION __.01. Subchapter G, Chapter 504, Transportation Code, is amended by adding Section 504.659 to read as follows:

Sec. 504.659. CHOOSE LIFE LICENSE PLATES. (a) The department shall issue specially designed license plates that include the words "Choose Life." The department shall design the license plates in consultation with the attorney general.

(b) After deduction of the department's administrative costs, the department shall deposit the remainder of the fee for issuance of license plates under this section in the state treasury to the credit of the Choose Life account established by Section 402.035, Government Code.

SECTION __.02. Subchapter B, Chapter 402, Government Code, is amended by adding Sections 402.035 and 402.036 to read as follows:

Sec. 402.035. CHOOSE LIFE ACCOUNT. (a) The Choose Life account is a separate account in the general revenue fund. The account is composed of:

(1) money deposited to the credit of the account under Section 504.659, Transportation Code; and

(2) gifts, grants, donations, and legislative appropriations.

(b) The attorney general administers the Choose Life account. The attorney general may spend money credited to the account only to:

(1) make grants to an eligible organization; and

(2) defray the cost of administering the account.

(c) The attorney general may not discriminate against an eligible organization because it is a religious or nonreligious organization.

(d) The attorney general may accept gifts, donations, and grants from any source for the benefit of the account.

(e) The attorney general by rule shall establish:

(1) guidelines for the expenditure of money credited to the Choose Life account; and

(2) reporting and other mechanisms necessary to ensure that the money is spent in accordance with this section.

(f) Money received by an eligible organization under this section may be spent only to provide for the material needs of pregnant women who are considering placing their children for adoption, including the provision of clothing, housing, prenatal care, food, utilities, and transportation, to provide for the needs of infants who are awaiting placement with adoptive parents, to provide training and advertising relating to adoption, and to provide pregnancy testing or preadoption or postadoption counseling, but may not be used to pay an administrative, legal, or capital expense.

(g) In this section, "eligible organization" means an organization in this state that:

(1) qualifies as a charitable organization under Section 501(c)(3), Internal Revenue Code of 1986;

(2) provides counseling and material assistance to pregnant women who are considering placing their children for adoption;

(3) does not charge for services provided;

(4) does not provide abortions or abortion-related

services or make referrals to abortion providers;

(5) is not affiliated with an organization that provides abortions or abortion-related services or makes referrals to abortion providers; and

(6) does not contract with an organization that provides abortions or abortion-related services or makes referrals to abortion providers.

Sec. 402.036. CHOOSE LIFE ADVISORY COMMITTEE. (a) The attorney general shall appoint a seven-member Choose Life advisory committee.

(b) The committee shall:

(1) meet at least twice a year or as called by the attorney general;

(2) assist the attorney general in developing rules under Section 402.035(e); and

(3) review and make recommendations to the attorney general on applications submitted to the attorney general for grants funded with money credited to the Choose Life account.

(c) Members of the committee serve without compensation and are not entitled to reimbursement for expenses. Each member serves a term of four years, with the terms of three or four members expiring on January 31 of each odd-numbered year.

ADOPTED

MAY 25 2009

Secretary of the Senate

FLOOR AMENDMENT NO. 11 BY: Cannon

Amend C.S.H.B. No. 300 (senate committee printing) as follows:

(1) Strike SECTIONS 9.01, 9.02, and 9.03 of the bill (page 63, line 64, through page 64, line 38), substitute the following, and renumber the remaining SECTIONS of ARTICLE 9 accordingly:

SECTION 9.01. Subtitle A, Title 5, Transportation Code, is amended by adding Chapter 92 to read as follows:

CHAPTER 92. STATEWIDE RAIL PLANNING AND COORDINATION

Sec. 92.001. In this chapter:

(1) "Department" means the Texas Department of Transportation.

(2) "Division" means the rail division of the department.

Sec. 92.002. DUTIES OF RAIL DIVISION. In addition to any other duty imposed on the division, the division shall:

(1) assure that rail is an integral part of the department's transportation planning process;

(2) coordinate and oversee rail projects that are financed with money distributed by the department, including money from the Texas rail relocation and improvement fund;

(3) develop and plan for improved passenger and freight rail facilities and services in this state; and

(4) coordinate the efforts of the department, the federal government, political subdivisions, and private entities to continue the development of rail facilities and services in this state.

Sec. 92.003. COORDINATION OF STATEWIDE PASSENGER RAIL SYSTEM. To facilitate the development and interconnectivity of rail systems in this state, the department shall coordinate

activities regarding the planning, construction, operation, and maintenance of a statewide passenger rail system. The department shall coordinate with other entities involved with passenger rail systems, including governmental entities, private entities, and nonprofit corporations.

Sec. 92.004. LONG-TERM PLAN FOR STATEWIDE PASSENGER RAIL SYSTEM. The department shall prepare and update annually a long-term plan for a statewide passenger rail system. Information contained in the plan must include:

(1) a description of existing and proposed passenger rail systems;

(2) information regarding the status of passenger rail systems under construction;

(3) an analysis of potential interconnectivity difficulties;

(4) ridership projections for proposed passenger rail projects; and

(5) ridership statistics for existing passenger rail systems.

(2) In SECTION 41.01 of the bill, strike the heading to added Chapter 92, Transportation Code (page 210, line 55), and substitute "CHAPTER 92. DEPARTMENT ROLE IN URBAN PASSENGER RAIL DEMONSTRATION PROGRAM".

(3) In SECTION 41.01 of the bill, added Chapter 92, Transportation Code (page 210, between lines 55 and 56), insert:

Sec. 92.0001. DEFINITIONS. In this chapter, "department" means the Texas Department of Transportation.

(4) In SECTION 41.01 of the bill, the heading to added Section 92.001, Transportation Code (page 210, line 56), strike "STATEWIDE PASSENGER RAIL SYSTEM;".

(5) In SECTION 41.01 of the bill, strike added Section

92.001(a), Transportation Code (page 210, lines 57-64), substitute the following, and reletter subsequent subsections of Section 92.001 accordingly:

(a) In addition to other duties of the department under this subtitle, the department shall designate urban passenger rail demonstration programs. The purpose of the urban passenger rail demonstration programs under this chapter is to allow the department to select appropriate urban areas in this state that are challenged by severe traffic congestion and poor air quality and authorize those selected areas to demonstrate improvements by constructing mobility improvement projects using the election process and methods of finance under Chapter 180.

(b) This chapter does not grant regulatory control or authority over the operations or financing of local transit authorities or local transportation authorities.

(6) In SECTION 41.01 of the bill, added Section 92.001(b), Transportation Code (page 210, line 68), strike "project" and substitute "program".

(7) In SECTION 41.01 of the bill, added Section 92.001(b), Transportation Code (page 211, line 1), strike "demonstration programs" and substitute "metropolitan planning organizations to implement an urban passenger rail demonstration program".

(8) In SECTION 41.01 of the bill, added Section 92.001(c), Transportation Code (page 211, line 4), strike "urban" and substitute "urban passenger".

(9) In SECTION 41.01 of the bill, strike added Section 92.002, Transportation Code (page 211, lines 6-28), and substitute:

Sec. 92.002. ANNUAL REPORT ON URBAN PASSENGER RAIL DEMONSTRATION PROGRAM. (a) The department shall prepare and annually submit, by December 31 each year, a report relating to the urban passenger rail demonstration program to:

(1) the governor;

(2) the lieutenant governor;

(3) the speaker of the house of representatives; and

(4) the standing committee of each house of the legislature that has primary jurisdiction over rail transportation issues.

(b) The report must include:

(1) a description of and general information about any urban passenger rail demonstration program selected by the department for implementation, including a description of all road and rail mobility improvements under construction;

(2) the results of any election conducted under Chapter 180, the construction or operation status of any passenger rail system constructed under an urban passenger rail demonstration program, and the methods of finance used to construct and operate any mobility improvement project;

(3) an analysis of any difficulties a demonstration program is experiencing;

(4) current and future projections for ridership on any passenger rail system constructed under an urban passenger rail demonstration program selected under this chapter; and

(5) an analysis of the impact the mobility improvement projects and passenger rail systems constructed under an urban passenger rail demonstration program have had on congestion and air quality.

(10) In SECTION 41.01 of the bill, added Section 92.003(a), Transportation Code (page 211, line 34), strike "and".

(11) In SECTION 41.01 of the bill, added Section 92.003(a)(3), Transportation Code (page 211, line 36), strike the period and substitute the following:

; and

(4) reduce traffic congestion on roadways.

(12) In SECTION 41.01 of the bill, added Section 92.004(a), Transportation Code (page 211, line 41), strike "project" and substitute "program".

(13) In SECTION 41.01 of the bill, added Section 92.004(b)(1), Transportation Code (page 211, line 44), between "court" and "located", insert "of a county with a population of more than 300,000".

(14) In SECTION 41.01 of the bill, added Section 92.004(b)(3), Transportation Code (page 211, line 49), strike "system" and substitute "system and mobility improvement projects".

(15) In SECTION 41.01 of the bill, added Section 92.004(b)(3), Transportation Code (page 211, line 50), between "system" and "on", insert "and projects".

(16) In SECTION 41.01 of the bill, added Section 92.004(b)(4), Transportation Code (page 211, line 55), strike "and".

(17) In SECTION 41.01 of the bill, added Section 92.004(b)(5), Transportation Code (page 211, line 57), strike "system." and substitute the following:

rail system and mobility improvement projects; and

(6) evidence showing the passenger rail system meets the requirements described in Section 92.003.

(18) In SECTION 41.01 of the bill, added Section 92.004(c), Transportation Code (page 211, line 61), strike "section" and substitute "chapter".

(19) In SECTION 41.01 of the bill, added Section 92.004(c), Transportation Code (page 211, line 63), between "region" and the period, insert "or the federal census bureau".

(20) In SECTION 41.01 of the bill, added Section 92.004(d),

Transportation Code (page 211, line 64), strike "2009, the department shall designate" and substitute "2010, the department shall designate and select".

(21) In SECTION 41.01 of the bill, added Section 92.004(d), Transportation Code (page 211, line 66), strike "project" and substitute "program".

(22) In SECTION 41.01 of the bill, added Section 92.004(e), Transportation Code (page 212, line 1), strike "project" and substitute "program".

(23) In SECTION 41.01 of the bill, added Section 92.004(e)(1), Transportation Code (page 212, line 3), between "application" and the underlined semicolon, insert "described by this section and whether the system described in the application meets the requirements of Section 92.003".

(24) In SECTION 41.01 of the bill, added Section 92.005(a), Transportation Code (page 212, line 18), strike "project" and substitute "program".

(25) In SECTION 41.01 of the bill, added Section 92.005, Transportation Code (page 212, lines 20-22), strike added Subsection (b) and substitute the following:

(b) A county described by Subsection (a) is expressly granted the powers described by Chapter 180. A county that is located in a metropolitan planning organization that is not selected as an urban passenger rail demonstration program does not have the authority to implement an urban passenger rail demonstration program under Chapter 180.

(26) In SECTION 41.01 of the bill, redesignate added Chapter 92, Transportation Code, as Chapter 93, Transportation Code, and make conforming changes throughout ARTICLE 41.

(27) In SECTION 41.02 of the bill, added Section 180.002, Transportation Code (page 212, line 34), between "DEFINITIONS." and

"In this chapter", insert the following:

(a) The definitions in Chapter 162, Tax Code, apply to this chapter.

(b)

(28) In SECTION 41.02 of the bill, strike added Section 180.002(1), Transportation Code (page 212, lines 35-37), and renumber subsequent added subdivisions of that section accordingly.

(29) In SECTION 41.02 of the bill, added Section 180.002(4), Transportation Code (page 212, line 43), strike ", Transportation Code".

(30) In SECTION 41.02 of the bill, added Section 180.002(5), Transportation Code (page 212, line 46), strike "the improvements" and substitute "an existing or new improvement".

(31) In SECTION 41.02 of the bill, added Section 180.002(7), Transportation Code (page 212, lines 62 and 63), strike "Texas Department of Transportation as described in Chapter 92, Transportation Code" and substitute "department as described in Chapter 93".

(32) In SECTION 41.02 of the bill, added Section 180.0025, Transportation Code (page 212, line 67), strike "92" and substitute "93".

(33) In SECTION 41.02 of the bill, added Section 180.003(a), Transportation Code (page 213, line 6), strike "92" and substitute "93".

(34) In SECTION 41.02 of the bill, added Section 180.003(b), Transportation Code (page 213, line 9), strike "county motor fuels tax" and substitute "method of finance".

(35) In SECTION 41.02 of the bill, added Section 180.004(a), Transportation Code (page 213, lines 14 and 15), strike "with the powers, duties, and provision granted" and substitute "under

Chapter 93 the powers and authority authorized".

(36) In SECTION 41.02 of the bill, immediately after added Section 180.008(c), Transportation Code (page 213, between lines 36 and 37), insert the following:

Sec. 180.009. EXPIRATION OR REPEAL OF CHAPTER. The expiration or repeal of this chapter does not affect:

(1) the enforcement of bonds, obligations, covenants, or other legal instruments issued or executed under this chapter before its expiration;

(2) the continued imposition and collection of a method of finance authorized at an election held under this chapter necessary to fulfill an obligation or other instrument described by Subdivision (1) before its expiration or repeal;

(3) the performance of any mobility improvement project, including maintenance and operation of a project; or

(4) the administration of a county mobility improvement fund established under this chapter for revenue from a method of finance.

(37) In SECTION 41.02 of the bill, added Section 180.051(a), Transportation Code (page 213, line 43), strike "92" and substitute "93".

(38) In SECTION 41.02 of the bill, added Section 180.051(a), Transportation Code (page 213, line 45), strike "240" and substitute "180".

(39) In SECTION 41.02 of the bill, strike added Section 180.052(a), Transportation Code (page 213, lines 56-59), and reletter subsequent added subsections of Section 180.052 accordingly.

(40) In SECTION 41.02 of the bill, added Section 180.053(a)(1), Transportation Code (page 214, line 1), between "constructed" and the underlined semicolon, insert "as determined

and selected under Section 180.054 or 180.0545".

(41) In SECTION 41.02 of the bill, added Section 180.053(a)(1), Transportation Code (page 214, line 5), between "rate" and "proposed", insert "or amount".

(42) In SECTION 41.02 of the bill, added Section 180.053(a)(3), Transportation Code (page 214, line 6), strike "project" and substitute "projects".

(43) In SECTION 41.02 of the bill, strike added Section 180.053(b), Transportation Code (page 214, lines 7-22), and substitute the following:

(b) The ballot at an election held under this subchapter must be printed as follows: "Authorizing _____ (insert name of county) to undertake the following mobility improvement projects: _____ (insert, on four separate lines, the following items: a name or brief description of each proposed mobility improvement project; an estimated total cost of each project; an estimated date any necessary and related bonds will expire; and an estimated date the project will be operational to the public)." Below the listing of each project and the required items, the ballot must read: "The capital construction of each project listed above will be funded with the following: ___ (insert each method of finance, including the appropriate rate or amount of the method of finance, and, if applicable, insert, on a separate line, each method of finance, including the appropriate rate or amount of the method of finance, to be used for proposed maintenance and operations of a mobility improvement project. State parenthetically after each method of finance whether the method will expire when bonds are retired)." As the last statement at the bottom of the ballot, the ballot must read: "Do you authorize the construction of the mobility improvement project or projects listed above and the collection of the (insert method of finance, as applicable) in _____ County?"

(44) In SECTION 41.02 of the bill, added Section 180.054(b), Transportation Code (page 214, line 46), strike "92" and substitute "93".

(45) In SECTION 41.02 of the bill, added Section 180.054(c), Transportation Code (page 214, lines 51 and 52), strike "On or before the 30th day before the date described in Section 180.051" and substitute "Not later than the 30th day after the date the department selects a metropolitan planning organization for the urban rail demonstration program described in Chapter 93".

(46) In SECTION 41.02 of the bill, added Section 180.054(d), Transportation Code (page 214, line 56), strike "180th" and substitute "240th".

(47) In SECTION 41.02 of the bill, immediately after added Section 180.054(d), Transportation Code (page 214, between lines 62 and 63), insert the following:

(e) A county may not propose for inclusion on the ballot a mobility improvement project for which the county does not intend to initiate construction. The county may not propose more mobility improvement projects than the proposed methods of finance can immediately support.

(48) In SECTION 41.02 of the bill, strike added Section 180.0545(a), Transportation Code (page 214, line 64, through page 215, line 1), and substitute the following:

(a) This section applies only to a county that is located in a metropolitan planning organization that serves two adjacent counties that each have a population of one million or more.

(a-1) Not later than the 30th day after the date the department selects a metropolitan planning organization described by Subsection (a) for the urban passenger rail demonstration program described in Chapter 93, the commissioners courts of those counties with a population of 300,000 or more shall jointly

establish with the governing bodies of the municipalities located in those counties a project selection committee as described by this section.

(49) In SECTION 41.02 of the bill, strike added Sections 180.0545(g)(1) and (2), Transportation Code (page 215, lines 53-57), and substitute the following:

(1) instead of the appointments under Subsection (f)(4), the governing body of the most populous municipality located in the county shall appoint three members who are elected officials of the municipality; and

(2) instead of the appointments under Subsection (f)(5), the governing bodies of the next three most populous municipalities located in the county shall each appoint one member who is an elected official of the municipality.

(50) In SECTION 41.02 of the bill, added Section 180.0545(e), Transportation Code (page 215, line 23), strike "180" and substitute "210".

(51) In SECTION 41.02 of the bill, added Section 180.0545(i), Transportation Code (page 215, line 64), strike "appoint" and substitute "for the appointment of".

(52) In SECTION 41.02 of the bill, added Section 180.055(a), Transportation Code (page 216, line 10), strike "tax revenue" and substitute "revenue from a method of finance".

(53) In SECTION 41.02 of the bill, added Section 180.055(c), Transportation Code (page 216, line 17), strike "Tax revenue" and substitute "Revenue from a method of finance".

(54) In SECTION 41.02 of the bill, added Section 180.101(a), Transportation Code (page 216, line 38), strike "the county" and substitute "the commissioners court of the county by order".

(55) In SECTION 41.02 of the bill, added Section 180.101(a)(1), Transportation Code (page 216, line 40), strike "2,

4, 6, 8, or 10" and substitute "5 or 10".

(56) In SECTION 41.02 of the bill, added Section 180.101(a)(1), Transportation Code (page 216, lines 41 and 42), strike "sale of gasoline and diesel fuel that is sold in the county by" and substitute "sale, delivery, or use of gasoline and diesel fuel that is sold in the county outside the bulk transfer/terminal system by".

(57) In SECTION 41.02 of the bill, added Section 180.101(a)(2), Transportation Code (page 216, line 50), strike "501.0234, Transportation Code;" and substitute "501.0234; and".

(58) In SECTION 41.02 of the bill, added Section 180.101(a)(3), Transportation Code (page 216, line 52), strike "; and" and substitute ".".

(59) In SECTION 41.02 of the bill, immediately after added Section 180.101(a), Transportation Code (page 216, between lines 52 and 53), insert the following:

(a-1) A county may not impose the tax authorized under this chapter on the removal of gasoline or diesel fuel from the bulk transfer/terminal system at a terminal rack or on gasoline or diesel fuel exempted from motor fuel tax by Section 162.104 or 162.204, Tax Code.

(60) In SECTION 41.02 of the bill, added Section 180.101(b), Transportation Code (page 216, line 55), strike "automobile registration fees" and substitute "an automobile registration fee".

(61) In SECTION 41.02 of the bill, added Section 180.101(e), Transportation Code (page 216, line 65), strike "tax" and substitute "tax or fee".

(62) In SECTION 41.02 of the bill, added Section 180.101, Transportation Code, reletter added Subsections (d), (e), and (f) as added Subsections (c), (d), and (e), respectively.

(63) In SECTION 41.02 of the bill, the heading to added Section 180.1012, Transportation Code (page 217, line 2), strike "FUNDING" and substitute "FINANCE".

(64) In SECTION 41.02 of the bill, added Section 180.1012(a), Transportation Code (page 217, lines 2 and 3), strike "local option funding" and substitute "finance".

(65) In SECTION 41.02 of the bill, added Section 180.1012(a), Transportation Code (page 217, line 5), strike "agreement as provided by Section 446.058" and substitute "contract or agreement as provided by Section 180.008".

(66) In SECTION 41.02 of the bill, the heading to added Section 180.1014, Transportation Code (page 217, lines 23 and 24), strike "LOCAL OPTION FUNDING" and substitute "FINANCE".

(67) In SECTION 41.02 of the bill, added Section 180.1014(a), Transportation Code (page 217, line 26), strike "local option funding" and substitute "finance".

(68) In SECTION 41.02 of the bill, added Section 180.1014(a), Transportation Code (page 217, line 29), strike "funding" and substitute "finance".

(69) In SECTION 41.02 of the bill, added Section 180.1014(b), Transportation Code (page 217, line 31), strike "local option funding" and substitute "finance".

(70) In SECTION 41.02 of the bill, immediately after added Section 180.1014(c), Transportation Code (page 217, between lines 37 and 38), insert the following:

(d) A method of finance implemented under this chapter:

(1) may not be used to raise funds in excess of the amount required to fund approved mobility improvement projects; and

(2) must expire when the approved mobility improvement projects are accepted by the governmental entity that contracted for the projects or when the bonds are paid off, whichever is later,

unless continued funding for maintenance and operation of a project, including the impact to an existing system as specified by an interlocal agreement, was authorized at an election held under this chapter.

(71) In SECTION 41.02 of the bill, added Section 180.1015(a), Transportation Code (page 217, line 40), strike ", Transportation Code".

(72) In SECTION 41.02 of the bill, added Section 180.1015(b), Transportation Code (page 217, lines 43 and 44), strike ", Transportation Code,".

(73) In SECTION 41.02 of the bill, added Section 180.1015(b), Transportation Code (page 217, line 45), strike ", Transportation Code".

(74) In SECTION 41.02 of the bill, added Section 180.1015(b), Transportation Code (page 217, line 47), strike ", Transportation Code".

(75) In SECTION 41.02 of the bill, added Section 180.1015(d), Transportation Code (page 217, lines 55 and 56), strike "payable to a municipality within the county".

(76) In SECTION 41.02 of the bill, added Section 180.1015(e), Transportation Code (page 217, lines 59 and 60), strike "the municipality's share of the fees collected for the municipality" and substitute "the fees collected".

(77) In SECTION 41.02 of the bill, strike added Sections 180.1015(i), (j), and (k), Transportation Code (page 218, lines 8-25).

(78) In SECTION 41.02 of the bill, the heading to added Section 180.102, Transportation Code (page 218, line 26), strike "IMPOSITION OF COUNTY MOTOR FUELS TAX" and substitute "ADMINISTRATION, COLLECTION, ENFORCEMENT, AND PROSECUTION OF MOTOR FUEL TAX".

(79) In SECTION 41.02 of the bill, strike added Section 180.102(a), Local Government Code (page 218, lines 26-34) and substitute the following:

(a) A motor fuel tax imposed under this chapter shall be administered, collected, and enforced exclusively by the comptroller strictly in conformance with Chapters 111, 112, 113, and 162, Tax Code, and other law that applies to a tax imposed by Chapter 162, Tax Code. Venue for criminal prosecution for a motor fuel tax imposed under this chapter is governed by Section 162.407, Tax Code. A county does not have any authority regarding a motor fuel tax imposed under this chapter that is not explicitly granted by this chapter or Chapter 162, Tax Code.

(80) In SECTION 41.02 of the bill, strike added Section 180.102(b), Transportation Code (page 218, lines 35 and 36) and substitute the following:

(b) The definitions in Section 162.001, Tax Code, apply to a motor fuel tax imposed under this chapter.

(81) In SECTION 41.02 of the bill, in added Section 180.102(c), Transportation Code (page 218, line 38), strike "apply to the tax authorized by this section" and substitute "apply to a motor fuel tax imposed under this chapter".

(82) In SECTION 41.02 of the bill, immediately after added Section 180.102(c), Transportation Code (page 218, between lines 38 and 39), insert the following:

(c-1) A person has the same rights in relation to a tax imposed under this chapter that a person has in relation to a tax imposed by Chapter 162, Tax Code, including the right to claim a refund, petition for redetermination, file suit, or take other action authorized by Chapter 111, 112, or 113, Tax Code, or by other law that applies to a tax imposed under Chapter 162, Tax Code.

(83) In SECTION 41.02 of the bill, added Section 180.102(d),

Transportation Code (page 218, line 39), strike "Subject to Section 180.1025, the comptroller" and substitute "The comptroller".

(84) In SECTION 41.02 of the bill, at the end of added Section 180.102(e), Transportation Code (page 218, line 47), after the underlined period, add "The order imposing the tax or discontinuing the imposition of the tax shall state the date that the tax is imposed or discontinued."

(85) In SECTION 41.02 of the bill, strike added Sections 180.102(g), (h), and (i), Transportation Code (page 218, lines 54-65), and substitute the following:

(g) The county motor fuels tax is added to the selling price of the gasoline or diesel fuel and is part of the gasoline or diesel fuel price, is a debt owed to the seller, and is recoverable at law in the same manner as the fuel charge for gasoline or diesel fuel.

(h) The tax described by Sections 162.1011, 162.1035, 162.2011, and 162.2035, Tax Code, is the tax imposed under this chapter and is not an additional tax.

(i) The comptroller may assign to a county the comptroller's authority under Section 111.202, Tax Code, to bring suit for the collection of a motor fuel tax imposed by this chapter that has become delinquent, plus penalties and interest.

(86) In SECTION 41.02 of the bill, strike added Section 180.1025, Transportation Code (page 219, lines 10-37).

(87) In SECTION 41.03 of the bill, added Section 791.034(a), Government Code (page 221, line 56), strike "political subdivisions to" and substitute "political subdivisions for the comptroller to".

(88) In SECTION 41.04 of the bill, added Section 162.001(57-a), Tax Code (page 222, lines 4-5), strike "Chapter 616, Local Government Code" and substitute "Chapter 180, Transportation Code".

(89) In SECTION 41.05 of the bill, strike amended Section

162.004(e)(4), Tax Code (page 222, lines 29-32), and substitute the following:

(4) if delivering the motor fuel into this state, denote on the shipping document the physical delivery address to which the motor fuel will be delivered, or in the case of a split load, each physical delivery address to which a portion of the motor fuel will be delivered; and

(90) In SECTION 41.05 of the bill, amended Section 162.004(g), Tax Code (page 222, lines 42 and 43), strike "listing the county in this state in which" and substitute "listing the physical delivery address in this state at which".

(91) In SECTION 41.05 of the bill, amended Section 162.004(g), Tax Code (page 222, lines 45 and 46), strike "and the county in this state is the county in which" and substitute "and the physical delivery address in this state is the physical delivery address at which".

(92) In SECTION 41.06 of the bill, amended Section 162.005(e)(2), Tax Code (page 222, line 60), strike "taxing county in which" and substitute "physical delivery address at which".

(93) In SECTION 41.07 of the bill, added Section 162.012(c), Tax Code (page 223, line 15), strike "Chapter 616, Local Government Code" and substitute "Chapter 180, Transportation Code".

(94) In SECTION 41.07 of the bill, immediately after added Section 162.012(c), Tax Code (page 223, between lines 15 and 16), insert the following:

(c-1) The presumption under Subsection (a) or (c) or under any other provision of this chapter regarding county motor fuel tax may be rebutted by an invoice, delivery receipt, or shipping document accepted by the purchaser showing the street address to which the motor fuel was delivered or by any other documentation prescribed by the comptroller. An invoice is considered to have

been accepted by the purchaser if the invoice was paid.

(95) Strike SECTION 41.09 of the bill (page 223, line 64, through page 224, line 36), and renumber subsequent SECTIONS accordingly.

(96) In SECTION 41.12 of the bill, amended Section 162.1011(a), Tax Code (page 225, line 5), strike "Chapter 616, Local Government Code" and substitute "Chapter 180, Transportation Code".

(97) In SECTION 41.13 of the bill, added Section 162.102(b), Tax Code (page 225, line 22), strike "Chapter 616, Local Government Code" and substitute "Chapter 180, Transportation Code".

(98) In SECTION 41.16 of the bill, added Section 162.1035(a)(1), Tax Code (page 225, line 47), strike "Chapter 616, Local Government Code" and substitute "Chapter 180, Transportation Code".

(99) In SECTION 41.16 of the bill, added Section 162.1035(a)(2), Tax Code (page 225, line 58), strike "616, Local Government Code" and substitute "180, Transportation Code".

(100) In SECTION 41.20 of the bill, added Section 162.108(a-1)(2), Tax Code (page 227, line 43), strike "terminal operator" and substitute "distributor".

(101) In SECTION 41.20 of the bill, added Section 162.108(a-1)(3), Tax Code (page 227, lines 46-48), strike "that is not licensed as a supplier, permissive supplier, or terminal operator and is not wholly owned by an entity that is licensed as a supplier, permissive supplier, or terminal operator" and substitute "that is not licensed as a supplier, permissive supplier, or distributor".

(102) Strike SECTION 41.25 of the bill (page 228, lines 46-52) and substitute the following:

SECTION 41.25. Section 162.114, Tax Code, is amended by

amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) Except as provided by Subsections (a-2) and [~~Subsection~~] (b), each person who is liable for a [~~the~~] tax imposed by this subchapter[~~, a terminal operator, and a licensed distributor~~] shall file a return on or before the 25th day of the month following the end of each calendar month.

(a-1) Except as provided by Subsection (a-2), a supplier, permissive supplier, terminal operator, importer, exporter, distributor, blender, or dealer shall file a return on or before the 25th day of the month following the end of each calendar month regardless of whether the person has tax liability for a tax imposed by this subchapter that accrued in the calendar month.

(a-2) Unless a supplier or permissive supplier is a party directly involved in a transaction subject to the tax imposed by Section 162.1011, 162.1035, 162.2011, or 162.2035, the supplier or permissive supplier:

(1) is not required to file a return or a supplement to a return in regard to a tax imposed by Section 162.1011, 162.1035, 162.2011, or 162.2035; and

(2) may not be requested or compelled to provide information to an agency or a political subdivision of this state in regard to a tax imposed by Section 162.1011, 162.1035, 162.2011, or 162.2035.

(103) In SECTION 41.26 of the bill, amended Section 162.115(b)(1)(D)(i), Tax Code (page 228, line 64), strike "the name of the purchaser" and substitute "the name and physical delivery address of the purchaser".

(104) In SECTION 41.26 of the bill, amended Section 162.115(b)(2)(B)(i), Tax Code (page 229, line 9), strike "the name of the purchaser" and substitute "the name and physical delivery

address of the purchaser".

(105) In SECTION 41.26 of the bill, amended Section 162.115(b)(2)(B)(ii), Tax Code (page 229, line 10), strike "or counties".

(106) In SECTION 41.26 of the bill, amended Section 162.115(c)(2)(B), Tax Code (page 229, line 40), strike "or counties".

(107) Insert the following appropriately numbered SECTION to ARTICLE 41 of the bill to read as follows and renumber subsequent SECTIONS accordingly:

SECTION 41.___. Sections 162.125(a), (c), (e), and (f), Tax Code, are amended to read as follows:

(a) A license holder may take a credit on a return for the period in which the sale occurred if the license holder paid taxes [~~tax~~] on the purchase of gasoline and subsequently resells the gasoline without collecting the taxes [~~tax~~] to:

(1) the United States government for its exclusive use, provided that a credit is not allowed for gasoline used by a person operating under contract with the United States;

(2) a public school district in this state for the district's exclusive use;

(3) an exporter licensed under this subchapter if the seller is a licensed supplier or distributor and the exporter subsequently exports the gasoline to another state;

(4) a licensed aviation fuel dealer if the seller is a licensed distributor; or

(5) a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the gasoline exclusively to provide those services.

(c) A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license under this subchapter, other than a license as an aviation fuel dealer, may file a refund claim with the comptroller if the license holder or person paid taxes [~~tax~~] on gasoline and the license holder or person:

(1) is the United States government and the gasoline is for its exclusive use, provided that a credit or refund is not allowed for gasoline used by a license holder or person operating under a contract with the United States;

(2) is a public school district in this state and the gasoline is for the district's exclusive use;

(3) is a commercial transportation company that provides public school transportation services to a school district under Section 34.008, Education Code, and the gasoline is used exclusively to provide those services;

(4) uses the gasoline in off-highway equipment, in stationary engines, or for other nonhighway purposes and not in a motor vehicle operated or intended to be operated on the public highways;

(5) uses the gasoline in a motor vehicle that is operated exclusively off the public highways, except for incidental travel on the public highways as determined by the comptroller, provided that a credit or refund may not be allowed for the portion used in the incidental highway travel; or

(6) is a licensed aviation fuel dealer who delivers the gasoline into the fuel supply tanks of aircraft or aircraft servicing equipment.

(e) A license holder may take credit on a return for the period in which the purchase occurred, and a person who does not hold a license may file a refund claim with the comptroller, if the

license holder or person paid taxes [~~tax~~] on gasoline and the gasoline is used in this state by auxiliary power units or power take-off equipment on any motor vehicle, if that use can be accurately measured while the motor vehicle is stationary by any metering or other measuring device or method designed to measure the fuel separately from fuel used to propel or idle the motor vehicle. The comptroller may approve and adopt the use of any device as a basis for determining the quantity of gasoline consumed in those operations for tax credit or tax refund. The climate-control air conditioning or heating system of a motor vehicle that has a primary purpose of providing for the convenience or comfort of the operator or passengers is not a power take-off system, and a credit or refund may not be allowed for the gasoline taxes [~~tax~~] paid on any portion of the gasoline that is used for that purpose. A credit or refund may not be allowed for the gasoline taxes [~~tax~~] paid on that portion of the gasoline used for idling.

(f) A person who paid taxes [~~tax~~] on the purchase of gasoline may claim a credit or seek a refund with the comptroller if 100 or more gallons of gasoline is subsequently exported or lost by fire, theft, or accident. A credit or refund claimed under this subsection must be taken or filed within the limitation period provided by Section 162.128.

(108) In SECTION 41.34 of the bill, added Section 162.2011, Tax Code (page 232, line 5), strike "Chapter 616, Local Government Code", and substitute "Chapter 180, Transportation Code".

(109) In SECTION 41.35 of the bill, amended Section 162.202(b), Tax Code (page 232, line 22), strike "Chapter 616, Local Government Code" and substitute "Chapter 180, Transportation Code".

(110) In SECTION 41.38 of the bill, added Section

162.2035(a)(1), Tax Code (page 232, line 47), strike "Chapter 616, Local Government Code" and substitute "Chapter 180, Transportation Code".

(111) In SECTION 41.38 of the bill, added Section 162.2035(a)(2), Tax Code (page 232, line 58), strike "616, Local Government Code" and substitute "180, Transportation Code".

(112) In SECTION 41.43 of the bill, added Section 162.209(a-1)(2), Tax Code (page 235, line 18), strike "terminal operator" and substitute "distributor".

(113) In SECTION 41.43 of the bill, added Section 162.209(a-1)(3), Tax Code (page 235, lines 21-23), strike "that is not licensed as a supplier, permissive supplier, or terminal operator and is not wholly owned by an entity that is licensed as a supplier, permissive supplier, or terminal operator" and substitute "that is not licensed as a supplier, permissive supplier, or distributor".

(114) In SECTION 41.44 of the bill, amended Section 162.211(a), Tax Code (page 235, line 33), strike "terminal supplier" and substitute "terminal operator [~~supplier~~]".

(115) Strike SECTION 41.48 of the bill (page 236, lines 11-17) and substitute the following:

SECTION 41.48. Section 162.215, Tax Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) Except as provided by Subsections (a-2) and [~~Subsection~~] (b), each person who is liable for a [~~the~~] tax imposed by this subchapter[~~, a terminal operator, and a licensed distributor~~] shall file a return on or before the 25th day of the month following the end of each calendar month.

(a-1) Except as provided by Subsection (a-2), a supplier, permissive supplier, terminal operator, importer, exporter,

distributor, blender, or dealer shall file a return on or before the 25th day of the month following the end of each calendar month regardless of whether the person has tax liability for a tax imposed by this subchapter that accrued in the calendar month.

(a-2) Unless a supplier or permissive supplier is a party directly involved in a transaction subject to the tax imposed by Section 162.1011, 162.1035, 162.2011, or 162.2035, the supplier or permissive supplier:

(1) is not required to file a return or a supplement to a return in regard to a tax imposed by Section 162.1011, 162.1035, 162.2011, or 162.2035; and

(2) may not be requested or compelled to provide information to an agency or a political subdivision of this state in regard to a tax imposed by Section 162.1011, 162.1035, 162.2011, or 162.2035.

(116) In SECTION 41.49 of the bill, amended Section 162.216(b)(1)(D)(i), Tax Code (page 236, line 30), strike "the name of the purchaser" and substitute "the name and physical delivery address of the purchaser".

(117) In SECTION 41.49 of the bill, amended Section 162.216(b)(1)(D)(ii), Tax Code (page 236, line 31), strike "or counties".

(118) In SECTION 41.49 of the bill, amended Section 162.216(b)(2)(B)(i), Tax Code (page 236, line 43), strike "name of the purchaser" and substitute "name and physical delivery address of the purchaser".

(119) In SECTION 41.49 of the bill, amended Section 162.216(b)(2)(B)(ii), Tax Code (page 236, line 44), strike "destination county or counties" and substitute "county".

(120) In SECTION 41.49 of the bill, amended Section 162.216(c)(2)(B), Tax Code (page 237, line 7), strike "or

counties".

(121) In SECTION 41.50 of the bill, amended Section 162.217(c), Tax Code (page 237, line 53), strike "state gasoline tax" and substitute "state diesel fuel tax".

(122) Insert the following appropriately numbered SECTIONS to ARTICLE 41 of the bill to read as follows and renumber subsequent SECTIONS accordingly:

SECTION 41.___. Sections 162.227(a), (c), and (e), Tax Code, are amended to read as follows:

(a) A license holder may take a credit on a return for the period in which the sale occurred if the license holder paid taxes [~~tax~~] on the purchase of diesel fuel and subsequently resells the diesel fuel without collecting the taxes [~~tax~~] to:

(1) the United States government for its exclusive use, provided that a credit is not allowed for gasoline used by a person operating under a contract with the United States;

(2) a public school district in this state for the district's exclusive use;

(3) an exporter licensed under this subchapter if the seller is a licensed supplier or distributor and the exporter subsequently exports the diesel fuel to another state;

(4) a licensed aviation fuel dealer if the seller is a licensed distributor; or

(5) a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the diesel fuel exclusively to provide those services.

(c) A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not

hold a license under this subchapter, other than a license as an aviation fuel dealer, may file a refund claim with the comptroller if the license holder or person paid taxes [~~tax~~] on diesel fuel and the license holder or person:

(1) is the United States government and the diesel fuel is for its exclusive use, provided that a credit or refund is not allowed for diesel fuel used by a license holder or person operating under a contract with the United States;

(2) is a public school district in this state and the diesel fuel is for the district's exclusive use;

(3) is a commercial transportation company that provides public school transportation services to a school district under Section 34.008, Education Code, and the diesel fuel is used exclusively to provide those services; or

(4) is a licensed aviation fuel dealer who delivers the diesel fuel into the fuel supply tanks of aircraft or aircraft servicing equipment.

(e) A person who paid taxes [~~tax~~] on the purchase of diesel fuel may claim a credit or seek a refund with the comptroller if 100 or more gallons of diesel fuel is subsequently exported or lost by fire, theft, or accident. A credit or refund claimed under this subsection must be taken or filed within the limitations period provided by Section 162.230.

SECTION 41.___. Section 162.227(c-1), Tax Code, as added by Chapter 220 (H.B. 1332), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

(c-1) A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license under this subchapter may file a refund claim with the comptroller, if the license holder or person paid taxes [~~tax~~] on diesel fuel and the diesel fuel is used in this state:

(1) as a feedstock in the manufacturing of tangible personal property for resale not as a motor fuel; or

(2) in a medium for the removal of drill cuttings from a well bore in the production of oil or gas.

SECTION 41.___. Section 162.227(c-1), Tax Code, as added by Chapter 911 (H.B. 2982), Acts of the 80th Legislature, Regular Session, 2007, is relettered as Subsection (c-2) and amended to read as follows:

(c-2) [~~(c-1)~~] A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license may file a refund claim with the comptroller, if:

(1) the license holder or person paid taxes [~~tax~~] on diesel fuel;

(2) the diesel fuel is used in this state by movable specialized equipment used in oil field well servicing; and

(3) the person who purchased the diesel fuel has received or is eligible to receive a federal diesel fuel tax refund under the Internal Revenue Code of 1986 for the diesel fuel used by movable specialized equipment used in oil field well servicing.

(123) In SECTION 41.55 of the bill, added Section 162.402(a)(16), Tax Code (page 240, lines 2 and 3), strike "county in this state other than the county" and substitute "physical delivery address in this state other than the physical delivery address".

(124) In SECTION 41.56 of the bill, added Section 162.403(18-a), Tax Code (page 241, lines 17 and 18), strike "county in this state other than the county" and substitute "physical delivery address in this state other than the physical delivery address".

(125) Add the following appropriately numbered SECTION to ARTICLE 41 of the bill to read as follows and renumber subsequent

SECTIONS accordingly:

SECTION 41.___. (a) If any provision of this Act conflicts with a provision of S.B. No. 1495, Acts of the 81st Legislature, Regular Session, 2009, relating to the taxation of motor fuels, the provision in S.B. No. 1495 controls, regardless of relative dates of enactment.

(b) This section applies only if S.B. No. 1495, Acts of the 81st Legislature, Regular Session, 2009, relating to the taxation of motor fuels, is enacted and becomes law. If S.B. No. 1495, Acts of the 81st Legislature, Regular Session, 2009, is not enacted or does not become law, this section has no effect.

(126) In SECTION 41.61(b) of the bill (page 243, line 5), strike "Chapter 616, Local Government Code" and substitute "Chapter 180, Transportation Code".

ADOPTED

MAY 2 5 2009

Secretary of the Senate

FLOOR AMENDMENT NO. 12 BY:

Amend H.B. 300 by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

Page 211, line 36 after "300,000" add or a county with a population greater than 200,000 and less than 230,000. and

Page 211, line 39 after "population" add or a county with a population greater than 200,000 and less than 230,000.

x 1193

ADOPTED

MAY 25 2009

Secretary of the Senate

FLOOR AMENDMENT NO. 16 BY: [signature]

Amend C.S.H.B. 300 (Committee Printing) by adding the following SECTIONs to read as follows:

SECTION 20.02. Sections 451.0611(e) and (f), Transportation Code, are amended to read as follows:

(e) The notice required by Subsection (d)(2) may be included in a citation issued to the person under Article 14.06, Code of Criminal Procedure, or under Section 451.0612, in connection with an offense relating to the nonpayment of the appropriate fare or charge for the use of the public transportation system.

(f) An offense under Subsection (d) is:

(1) a Class C misdemeanor; and

(2) not a crime of moral turpitude.

SECTION 20.03. Subchapter B, Chapter 451, Transportation Code, is amended by adding Section 451.0612 to read as follows:

Sec. 451.0612. FARE ENFORCEMENT OFFICERS IN CERTAIN AUTHORITIES. (a) An authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000 may employ persons to serve as fare enforcement officers to enforce the payment of fares for use of the public transportation system by:

(1) requesting and inspecting evidence showing payment of the appropriate fare from a person using the public transportation system; and

(2) issuing a citation to a person described by Section 451.0611(d)(1).

(b) Before commencing duties as a fare enforcement officer a person must complete a 40-hour training course approved by the authority that is appropriate to the duties required of a fare

enforcement officer.

(c) While performing duties, a fare enforcement officer shall:

(1) wear a distinctive uniform that identifies the officer as a fare enforcement officer; and

(2) work under the direction of the authority's manager of safety and security.

(d) A fare enforcement officer may:

(1) request evidence showing payment of the appropriate fare from passengers of the public transportation system;

(2) request personal identification from a passenger who does not produce evidence showing payment of the appropriate fare on request by the officer;

(3) request that a passenger leave the public transportation system if the passenger does not possess evidence of payment of the appropriate fare; and

(4) file a complaint in the appropriate court that charges the person with an offense under Section 451.0611(d).

(e) A fare enforcement officer may not carry a weapon while performing duties under this section.

(f) A fare enforcement officer is not a peace officer and has no authority to enforce a criminal law, other than the authority possessed by any other person who is not a peace officer.

SECTION 20.04. Section 451.108(c), Transportation Code, is amended to read as follows:

(c) A peace officer commissioned under this section, except as provided by Subsections (d) and (e), or a peace officer contracted for employment by an authority confirmed before July 1, 1985, in which the principal municipality has a

population of less than 750,000, may:

(1) make an arrest in any county in which the transit authority system is located as necessary to prevent or abate the commission of an offense against the law of this state or a political subdivision of this state if the offense or threatened offense occurs on or involves the transit authority system;

(2) make an arrest for an offense involving injury or detriment to the transit authority system;

(3) enforce traffic laws and investigate traffic accidents that involve or occur in the transit authority system; and

(4) provide emergency and public safety services to the transit authority system or users of the transit authority system.

SECTION 20.05. Section 451.061, Transportation Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) Except as provided by Subsection (d-1), the [~~The~~] fares, tolls, charges, rents, and other compensation established by an authority in which the principal municipality has a population of less than 1.2 million may not take effect until approved by a majority vote of a committee composed of:

(1) five members of the governing body of the principal municipality, selected by that governing body;

(2) three members of the commissioners court of the county having the largest portion of the incorporated territory of the principal municipality, selected by that commissioners court; and

(3) three mayors of municipalities, other than the principal municipality, located in the authority, selected by:

(A) the mayors of all the municipalities, except

the principal municipality, located in the authority; or

(B) the mayor of the most populous municipality, other than the principal municipality, in the case of an authority in which the principal municipality has a population of less than 300,000.

(d-1) The establishment of or a change to fares, tolls, charges, rents, and other compensation by an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000, takes effect immediately on approval by a majority vote of the board, except that the establishment of or a change to a single-ride base fare takes effect on the 60th day after the date the board approves the fare or change to the fare, unless the policy board of the metropolitan planning organization that serves the area of the authority disapproves the fare or change to the fare by a majority vote.

SECTION 20.06. Section 451.071, Transportation Code, is amended by adding Subsections (g) and (h) to read as follows:

(g) This section does not require the authority to hold a referendum on a proposal to enter into a contract or interlocal agreement to build, operate, or maintain a fixed rail transit system for another entity. Notwithstanding Subsection (d) the authority may spend funds of the authority to enter into a contract and operate under that contract to build, operate, or maintain a fixed rail transit system if the other entity will reimburse the authority for the funds.

(h) A referendum held by a political subdivision, the authority or an entity other than the authority at which funding is approved for a fixed rail transit system is considered to meet the requirements of Subsections (d) and (e) and Section 451.3625 if the notice for the election called by the political

subdivision, the authority or other entity contains the description required by Subsection (c). The referendum may allow for financial participation of more than one political subdivision or entity. The authority may only spend funds of the authority if the referendum authorizes that expenditure.

SECTION 20.07. Subchapter J, Chapter 451, Transportation Code, is amended by adding Sections 451.458, 451.459, and 451.460 to read as follows:

Sec. 451.458. INTERNAL AUDITOR. (a) This section applies only to an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000.

(b) The board shall appoint a qualified individual to perform internal auditing services for a term of five years. The board may remove the auditor only on the affirmative vote of at least three-fourths of the members of the board.

(c) The auditor shall report directly to the board.

Sec. 451.459. SUNSET REVIEW. (a) An authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000 is subject to review under Chapter 325, Government Code (Texas Sunset Act), as if it were a state agency but may not be abolished under that chapter. The review shall be conducted as if the authority were scheduled to be abolished September 1, 2011. In addition, another review shall be conducted as if the authority were scheduled to be abolished September 1, 2017. The reviews conducted under this section must include an assessment of the governance, management, and operating structure of the authority and the authority's compliance with the duties and requirements placed on it by the legislature.

(b) The authority shall pay the cost incurred by the Sunset Advisory Commission in performing a review of the

authority under this section. The Sunset Advisory Commission shall determine the cost, and the authority shall pay the amount promptly on receipt of a statement from the Sunset Advisory Commission detailing the cost.

Sec. 451.460. ANNUAL REPORT. (a) This section applies only to an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000.

(b) The authority shall provide an annual report to each governing body of a municipality or county in the authority regarding the status of any financial obligation of the authority to the municipality or county.

SECTION 20.08. Section 451.5021, Transportation Code, is amended by amending Subsections (a), (b), (d), and (e) and adding Subsections (b-1), (d-1), (d-2), (d-3), and (e-1) to read as follows:

(a) This section applies only to the board of an authority created before July 1, 1985, in which the principal municipality has a population of less than 750,000 [~~in which each member of the governing body of the principal municipality is elected at large~~].

(b) Members of the [~~The~~] board [~~is composed of seven members who~~] are appointed as follows:

(1) one member, who is an elected official, [~~two members representing the general public~~] appointed by the metropolitan planning organization designated by the governor that serves the area of the authority;

(2) one member, who is an elected official, [~~two members~~] appointed by the governing body of the principal municipality;

(3) one member jointly appointed by:

(A) the governing body of the principal

municipality; and

(B) the commissioners court of the principal county;

(4) one member jointly appointed by:

(A) the governing body of the principal municipality; and

(B) the commissioners court of the county, excluding the principal county, that has the largest population of the counties in the authority [~~a panel composed of the mayors of all the municipalities in the authority located in the principal county of the authority, excluding the mayor of the principal municipality~~]; [~~and~~]

(5) one member, who is an elected official, appointed by a panel composed of[~~:~~

[~~(A)~~] the mayors of all municipalities in the authority [~~located outside the principal county of the authority~~], excluding the mayor of the principal municipality;

(6) one member, who has at least 10 years of experience as a financial or accounting professional, appointed by the metropolitan planning organization that serves the area in which the authority is located;

(7) one member, who has at least 10 years of experience in an executive-level position in a public or private organization, including a governmental entity, appointed by the metropolitan planning organization that serves the area in which the authority is located; and

(8) two members appointed by the metropolitan planning organization that serves the area in which the authority is located, if according to the most recent federal decennial census more than 35 percent of the population in the territory of the authority resides outside the principal

municipality [~~(B) the county judges of the counties having unincorporated area in the authority, excluding the county judge of the principal county; and~~

[~~(C) the presiding officer of each municipal utility district that:~~

[~~(i) has a majority of its territory located outside the principal county; and~~

[~~(ii) is located wholly or partly in the authority~~].

(b-1) Notwithstanding Section 451.505, members of the board serve staggered three-year terms, with the terms of two or three members, as applicable, expiring June 1 of each year.

(d) A person appointed under Subsection (b)(1), (2) [~~(b)(2), (3), (4)~~], or (5):

(1) must be a member of the governing body:

(A) of the political subdivision that is entitled to make the appointment; or

(B) over which a member of the panel entitled to make an appointment presides;

(2) vacates the office of board member if the person ceases to be a member of the governing body described by Subdivision (1);

(3) serves on the board as an additional duty of the office held on the governing body described by Subdivision (1); and

(4) is not entitled to compensation for serving as a member of the board.

(d-1) At least two members appointed under Subsections (b)(1), (6), and (7) must be qualified voters residing in the principal municipality.

(d-2) A person appointed under Subsection (b)(3) must:

(1) have the person's principal place of occupation or employment in:

(A) the principal municipality; or

(B) the portion of the authority's service area that is located in the principal county; or

(2) be a qualified voter of:

(A) the principal municipality; or

(B) the portion of the authority's service area that is located in the principal county.

(d-3) A person appointed under Subsection (b)(4) must:

(1) have the person's principal place of occupation or employment in:

(A) the principal municipality; or

(B) the portion of the authority's service area that is located in the county, other than the principal county, that has the largest population of the counties in the authority; or

(2) be a qualified voter of:

(A) the principal municipality; or

(B) the portion of the authority's service area that is located in the county, other than the principal county, that has the largest population of the counties in the authority.

(e) A panel appointing a member under Subsection (b)(5) [~~this section~~] operates in the manner prescribed by Section 451.503.

(e-1) A joint appointment to fill a vacancy in a position under Subsection (b)(3) or (4) shall be made not later than the 60th day after the date a position becomes vacant.

SECTION 20.09. Section 451.505(b), Transportation Code, is amended to read as follows:

(b) The terms of members of a board are staggered if the authority was[~~:~~

[~~(1)~~] created before 1980 and has a principal municipality with a population of less than 1.2 million[~~; or~~

[~~(2) confirmed before July 1, 1985, and has a principal municipality with a population of less than 750,000~~].

SECTION 20.10. Subsections (g) and (h), Section 451.5021, Transportation Code, are repealed.

SECTION 20.11. (a) This section applies only to a member of the board of a metropolitan rapid transit authority created before July 1, 1985, in which the principal municipality has a population of 750,000 or less.

(b) The term of a board member that is scheduled, under the law as it existed before the effective date of this Act, to expire:

(1) after the effective date of this Act but before January 1, 2010, is extended to December 31, 2009; and

(2) on or after January 1, 2010, expires on the date the term was scheduled to expire under this law as it existed before the effective date of this Act.

(c) As soon as practicable on or after the effective date of this Act, but not later than December 31, 2009, the persons and entities specified in Section 451.5021, Transportation Code, as amended by this Act, shall appoint the members of the board in compliance with that section, as amended, to serve terms that begin, as applicable and as subject to Subsection (d) of this section:

(1) January 1, 2010; or

(2) the day after a term expires under Subsection (b)(2) of this section.

(d) A vacancy created because of the expiration of a term

under Subsection (b) of this section is filled in the following manner:

(1) for a member appointed under Section 451.5021(b)(1), Transportation Code, under the law as it existed before the effective date of this Act:

(A) one vacancy shall be filled by the appointing person or entity specified by Section 451.5021(b)(6), Transportation Code, as amended by this Act; and

(B) one vacancy shall be filled by the appointing person or entity specified by Section 451.5021(b)(7), Transportation Code, as amended by this Act;

(2) for a member appointed under Section 451.5021(b)(2), Transportation Code, under the law as it existed before the effective date of this Act:

(A) one vacancy shall be filled by the appointing person or entity specified by Section 451.5021(b)(1), Transportation Code, as amended by this Act; and

(B) one vacancy shall be filled by the appointing person or entity specified by Section 451.5021(b)(2), Transportation Code, as amended by this Act;

(3) for a member appointed under Section 451.5021(b)(3), Transportation Code, under the law as it existed before the effective date of this Act, the vacancy shall be filled by the appointing person or entity specified by Section 451.5021(b)(3), Transportation Code, as amended by this Act;

(4) for a member appointed under Section 451.5021(b)(4), Transportation Code, under the law as it existed before the effective date of this Act, the vacancy shall be filled by the appointing person or entity specified by Section 451.5021(b)(5), Transportation Code, as amended by this Act; and

(5) for a member appointed under Section

451.5021(b)(5), Transportation Code, under the law as it existed before the effective date of this Act, the vacancy shall be filled by the appointing person or entity specified by Section 451.5021(b)(4), Transportation Code, as amended by this Act.

(e) The members of the board appointed under Subsection (c) of this section shall draw lots to determine which terms of two members expire June 1, 2011, which terms of two members expire June 1, 2012, and which terms of three members expire June 1, 2013.

(f) As soon as practicable after the metropolitan planning organization specified by Section 451.5021(b)(8), Transportation Code, as added by this Act, determines that that subdivision applies to the metropolitan rapid transit authority, the metropolitan planning organization shall appoint:

(1) one member of the board of the authority for a term to expire June 1, 2011, or, if that date has passed, the following six-year anniversary of that date; and

(2) one member of the board of the authority for a term to expire June 1, 2013, or, if that date has passed, the following six-year anniversary of that date.

ADOPTED

FLOOR AMENDMENT NO. 17 MAY 25 2009 BY: [signature]

[signature] Secretary of the Senate

Amend CSHB 300 by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. This Act does not make an appropriation. This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 81st Legislature.

1206

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LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 26, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB300** by Isett (Relating to the continuation and functions of the Texas Department of Transportation, including the transfer of certain functions to the Texas Department of Motor Vehicles and the Texas Department of Licensing and Regulation; providing penalties.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB300, As Passed 2nd House: a negative impact of ($132,052,800) through the biennium ending August 31, 2011.

Depending on the number of counties that elected to impose a county motor fuels tax, there would be an indeterminate amount of revenue gain to the state and units of local government. Due to the provisions of the bill, the Comptroller's office would incur costs of $17,556,000 for the biennium ending August 31, 2011 for administration of county motor fuels taxes. However, these costs are specifically contingent upon an interlocal agreement with one or more local entities in which the Comptroller would receive sufficient funding in advance of the effective date of any motor fuels tax imposed by a county to adequately cover these costs. If the Comptroller does not receive funding in a timely manner as determined by the Comptroller, the Comptroller is not required to enforce the provisions of this Act. Therefore, there would be no effect on the state budget for these provisions.

The amount of additional costs and overall negative fiscal impact to the Department of Transportation for the acquisition of property through condemnation under the provisions of the bill would vary by case, and therefore, there would be an indeterminate fiscal impact to the state.

The bill would re-appropriate in fiscal year 2010 any unobligated and unexpended balance of any appropriations made to the Texas Department of Transportation for the 2008-09 biennium related to programs that would be transferred to the new Department of Motor Vehicles.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	($45,208,000)
2011	($104,400,800)
2012	($176,276,400)
2013	($248,148,000)
2014	($320,020,950)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/ (Cost) from *General Revenue Fund* 1	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1	Probable Savings/ (Cost) from *State Highway Fund* 6	Probable Revenue Gain/(Loss) from *State Highway Fund* 6
2010	($45,455,342)	$247,342	($688,067)	$67,987,250
2011	($104,621,542)	$220,742	($688,067)	$82,263,500
2012	($176,497,142)	$220,742	($688,067)	($3,424,000)
2013	($248,368,742)	$220,742	($688,067)	($4,931,500)
2014	($320,241,692)	$220,742	($688,067)	($6,439,000)

Fiscal Year	Probable Revenue Gain/(Loss) from *Hwy Beautification Acct* 71	Probable Revenue Gain/(Loss) from *New General Revenue Dedicated Choose Life Account*	Probable Revenue Gain/(Loss) from *Counties*	Change in Number of State Employees from FY 2009
2010	$115,000	$6,600	$30,550,150	47.3
2011	$115,000	$6,600	$34,989,838	46.0
2012	$115,000	$6,600	($5,465,475)	46.0
2013	$115,000	$6,600	($6,480,788)	46.0
2014	$115,000	$6,600	($7,496,100)	46.0

Fiscal Analysis

The bill would amend provisions in the Transportation Code, regarding the continuation and functions of the Texas Department of Transportation (TxDOT) and the transfer of certain functions of TxDOT to a new Texas Department of Motor Vehicles (DMV) and the Governor's Office. The bill would extend the sunset abolition date for TxDOT to September 1, 2013.

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The bill would create the Texas Department of Motor Vehicles (DMV) and a board of the DMV consisting of nine members appointed by the Governor with the advice and consent of the Senate and would require the transfer of all powers, duties, obligations, rights of action, personnel, computers, other property and equipment, files, and related materials of the Motor Carrier Division (with the exception of Oversize/Overweight vehicle permitting and enforcement), Motor Vehicle Division, Vehicle Titles and Registration Division, and the Automobile Burglary and Theft Prevention Authority office of the Texas Department of Transportation (TxDOT) to the DMV on November 1, 2009. The bill would transfer and re-appropriate to the DMV any unobligated and unexpended balance of any appropriations made to TxDOT for the state fiscal biennium ending August 31, 2009 (2008-09 biennium) for the transferred programs in fiscal year 2010. The bill would also direct the transfer of other full-time equivalent employees (FTE) that support the transferred motor vehicle functions at TxDOT to the DMV. The bill would authorize TxDOT and DMV to determine the number of support FTEs to be transferred through a memorandum of understanding (MOU). The bill would require the board of the DMV and TTC to adopt or revise a joint MOU to coordinate the agencies' information

systems to allow for the sharing of information and to implement the MOU using existing personnel and resources. The bill would authorize the DMV board and the TTC to enter into a joint MOU to effectuate the transfer of powers and duties, which could include an agreement for the provision of office space, utilities, and support services. The bill would require TxDOT to establish a DMV transition team to plan for and make recommendations regarding the transfer of obligations, property, personnel from TxDOT to the DMV.

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The bill would require TxDOT to develop and implement a system to allow an owner of a commercial fleet of vehicles consisting of at least 25 nonapportioned vehicles used for business purposes to register vehicles in the commercial fleet for an extended registration period of no less than one year and no greater than 8 years. The bill would require an annual fleet registration fee of $10 per fleet vehicle, a one-time license plate manufacturing fee of $1.50 for each fleet vehicle license plate, and the advance payment of all registration license taxes and fees for the entire registration period.

The bill would recodify and amend Chapters 501, 504 and 520 of the Transportation Code, to add a new electronic titling system, including the payment of fees by electronic funds transfer or credit card; revise the administration, marketing and sale of specialty license plates and personalized license plates, including the private vendor contract terms and conditions; change motor vehicle registrations, including electronic fee payments, reclassifications and fee amounts, and the transfer and removal of license plates upon the sale or transfer of a vehicle; amend the duties and responsibilities of tax assessor-collectors; and require joint studies by TxDOT and DPS, in consultation with the Texas Commission on Environmental Quality (TCEQ), on the consolidation of motor vehicle registrations and compulsory inspection procedures, and on the merger or consolidation of similar information collected separately by each agency.

The bill would require TxDOT to redevelop and regularly update the Statewide Transportation Plan and to coordinate with metropolitan planning organizations (MPO) on funding assumptions for long-range planning. The bill would require TxDOT to establish a transportation project information reporting system that is available on the agency's website. The bill would authorize the creation of rural planning organizations (RPO). TxDOT would be required to facilitate the creation of RPOs with existing resources and provide funds and personnel to assist the RPOs with rural transportation planning.

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the demonstration programs. The bill sets forth requirements of, application procedures for, and the powers and duties of a county involved in an urban passenger rail demonstration project.

The bill would create Chapter 180 as part of Title 5, Transportation Code, regarding local options for funding urban passenger rail demonstration and mobility improvement projects. The provisions of this chapter would apply only to counties meeting certain criteria and selected by TxDOT for an urban passenger rail demonstration project. The bill authorizes applicable counties to impose (1) a tax on the retail sale of gasoline or diesel fuel of 5 or 10 cents per gallon; (2) a mobility improvement fee of between $1 and $60; and (3) a driver's license renewal fee between $1 and the state renewal fee amount. Any money the county would receive from the methods of finance authorized by this bill would be deposited into a County Mobility Improvement Fund (fund). The bill sets forth requirements applying to TxDOT, counties imposing an applicable method of finance, the Comptroller, and the Department of Public Safety relating to methods of finance authorized by this chapter and makes conforming changes. The bill provides for three options on the use and distribution of money collected from a county motor fuel tax, depending on requirements of the state constitution, including the possibility that one-fourth of the tax be allocated to the Available School Fund. The above provisions of the bill would take effect immediately upon enactment, assuming that the bill receives the requisite two-thirds majority vote in both houses of the Legislature. Otherwise this section would take effect September 1, 2009.

The bill would require the Texas Department of Licensing and Regulation (TDLR) to license and regulate used automotive parts recyclers and employees of used automotive parts recyclers. The bill would require the presiding officer of the Commission of Licensing and Regulation to appoint five members to a Used Automotive Parts Recycling Advisory Board for the purposes of providing advice and recommendations to the TDLR on technical matters relevant to the administration and enforcement of licensing standards. The bill would authorize TDLR to establish and collect fees. The bill would require TDLR to perform periodic and risk-based inspections on licensees at the place of business. The bill would establish terms of license eligibility, administrative penalties, and criminal penalties. The bill would require a used automotive parts recycler to file certain reports regarding vehicle title acquisition, notification of vehicle dismantling, and records of purchase and inventory of parts with TxDOT. The bill would require TxDOT to provide the used automotive parts recycler with receipts for the reports, records, and other specified documentation. The license requirement and enforcement requirements would take effect September 1, 2010.

The bill would require TxDOT to issue "Choose Life" specialty license plates. The bill would require the fee for issuance of the license plates, after deduction for TxDOT's administrative costs, to be deposited to the credit of a new Choose Life account in the General Revenue Fund. The bill would require the Attorney General to administer the account. The bill would specify that money in the account could only be spent to make grants to an eligible organization and defray the costs of administering the account. The bill would require the Attorney General by rule to establish guidelines for the expenditures; report on expenditure compliance; and appoint a seven-member advisory committee to assist in developing rules, reviewing grant applications, and making grant recommendations.

The bill would create the Texas Transportation Revolving Fund to be held in the Texas Treasury Safekeeping Trust Company and to be administered by the TTC through TxDOT. The bill would require TTC to file an annual report with the Governor, Lieutenant Governor, and the LBB providing certain information on the operation of the fund. The bill would authorize TTC to deposit to the fund proceeds from the sale of State Highway Fund revenue bonds (Proposition 14), Proposition 12 General Obligation Bonds, and proceeds from the sale of revenue bonds backed by the fund as authorized by the bill; repayments of principal and interest on loans made from the fund as authorized by the bill; funds provided by TTC from the State Highway Fund, Texas Mobility Fund, and/or any other source designated by TTC; and from direct appropriations to the fund. Interest income from investments of money in the funds would also be deposited to the fund.

The bill would authorize TTC to issue revenue bonds backed by the fund. The bonds would be special obligations of TTC and would not constitute a debt of the state or a pledge of the faith and credit of the state. The bill would authorize TTC to use money held in the fund to provide financial assistance to a public entity for the costs of a transportation project and to pay debt service on revenue bonds backed

by the fund. The bill would authorize a public entity that is authorized by law to construct, maintain, or finance a transportation project to borrow money from the fund and to pledge revenues, income, and pledge, levy, and collect taxes (subject to constitutional limitation) for the repayment of a loan or other financial assistance from the fund. The bill would authorize TTC to require the entity receiving financial assistance to make charges, levy and collect taxes, pledge revenues, or otherwise take actions necessary to provide for money in an amount sufficient for repayment under the terms and conditions of the financial assistance/loan. For a tolled project, TTC would be authorized to require that revenues from the project be shared between the entity and the commission based on the terms and conditions of a revenue sharing agreement between TTC and the entity. The bill would authorize TTC to sell any loans made from money in the fund, the proceeds from which would be deposited to the fund. The bill would require a competitive bid process for the sale of loans. The bill would require TTC to adopt rules to establish eligibility and prioritization criteria for entities applying for financial assistance and for projects that may receive financial assistance; specify the method for setting the terms and conditions for providing financial assistance from the fund; and establish procedures for the sale of loans originated from amounts on deposit in the fund. The bill would require TTC to appoint a rules advisory committee to advise TxDOT and TTC on the development of the initial rules.

The bill would amend Section 21.042 of the Property Code to require the special commissioners in estimating the injury or benefit to a property owner in a condemnation proceeding relating to real property that is condemned in connection with a transportation project of TxDOT or other political subdivision or governmental entity to consider an injury or benefit that is peculiar to the property owner and that relates to the owner's ownership, use, or enjoyment of the property, including a material impairment of direct access on or off the remaining property that affects the market value of the remaining property.

The bill would require TxDOT to use up to $25 million in funds received from the federal American Recovery and Reinvestment Act of 2009 for the relocation of certain utility facilities required by any transportation projects financed with those funds.
The bill would take effect September 1, 2009 except as otherwise noted for specific sections of the bill.

Methodology

Based on the analysis of Sunset Advisory Commission (SAC) staff it is assumed the provisions of the bill that require the deposit of outdoor rural sign fee and penalty revenues to the General Revenue – Dedicated Highway Beautification Account No. 27 instead of the State Highway Fund would result in a $115,000 revenue gain to the General Revenue - Dedicated Fund and a corresponding decrease to State Highway Fund in each fiscal year.

Based on the analysis of TxDOT and SAC staff, it is assumed the establishment of a rail transportation division within TxDOT would require one additional FTE for a division director at a salary of $64,435 each year. Employee benefits costs for the additional FTE are estimated to be $18,409 each year.

Based on information provided by TxDOT and SAC staff, it is assumed approximately 622 full-time-equivalent (FTE) positions and $103.7 million for each fiscal year would be transferred from TxDOT to the new DMV. It is also assumed the new DMV would require four additional FTEs: one Executive Director ($150,000 per year), two FTEs for executive management and board support ($209,600 total per year), and one auditor position ($66,838 per year). Employee benefits costs associated with the four new FTEs is estimated to be $121,833 per year (28.57 percent of annual salary). It is assumed the travel and support expenses for the nine-member board of the DMV would cost an estimated $56,952 each year. It is assumed any unobligated and unexpended TxDOT appropriations from the 2008-09 state fiscal biennium would be re-appropriated to the DMV and would be used to cover any additional transition costs. It is assumed any appropriations transferred from TxDOT and any new appropriations made to the new DMV would be made from the State Highway Fund.

Based on the analysis of the SAO, it is assumed the financial audit of the new DMV would require 1.3 FTEs and 2,000 hours to complete at a cost of $180,000 in fiscal year 2010.

Based on the analysis of the Bond Review Board, the debt service estimates in the table above assume $1 billion in general obligation bonds for highway improvement projects would be issued each year from fiscal year 2010 through fiscal year 2014 with a 6 percent interest rate and 30-year level debt service structure. The estimated debt service payments would increase to $359.4 million in fiscal year 2015 and continue through fiscal year 2044.

Note: The $5.0 billion in general obligation bonds for highway improvement projects, authorized by voters in the November 2007 election, is assumed to be repaid with General Revenue Funds. As not self-supporting general obligation debt, these bonds are currently factored into the state's constitutional debt limit. As of the end of fiscal year 2008, the constitutional debt limit for issued and unissued debt is 4.09 percent. As specified in Article III, Section 49-j of the Texas Constitution, the Legislature may not authorize debt if the maximum annual debt service in any fiscal year on state debt payable from the General Revenue Fund exceeds 5 percent of an amount equal to the average of the amount of General Revenue Fund revenues for the three preceding fiscal years. This limitation includes amounts for authorized but unissued bonds. The Bond Review Board estimates that if a 30-year amortization schedule is used for these bonds with a 6 percent interest rate, this bill would decrease the current 4.09 percent debt limit by 0.20 percent to 3.89 percent.

TxDOT estimates there are approximately 400,000 fleet vehicles in Texas and that approximately 37,500 fleet vehicles would be added each fiscal year (FY). Based on the analysis of TxDOT, it is assumed half of the current fleet vehicles (200,000) would apply for an 8-year fleet registration in FY 2010, the remaining half would apply for a 8-year fleet registration in FY 2011, and an additional 37,500 would apply in FY 2011 and each year thereafter. All applicable fees would be paid in advance for the 10-year period. For the purposes of this analysis, it is assumed 67 percent of the registration fees would be deposited to the State Highway Fund and 33 percent would be retained by the counties. The tables above also reflect the impact of the $10/$5 optional county road and bridge fee, of which 97 percent is deposited to county road and bridge funds and 3 percent to the State Highway Fund. It is assumed half of the fleet vehicles would be registered in counties assessing the $10 optional fee and the remainder would be registered in counties assessing a $5 optional fee. Based on current law, the new $10 fleet management fee and one-time $1.50 plate manufacturing fee would be deposited to the State Highway Fund. The advance payment of all applicable fees would result in a revenue gain in the initial year of the fleet registration and a revenue loss in subsequent years as the fleet vehicles would not be required to pay annual fees until the term of the fleet registration has expired.

The Comptroller has indicated it will incur costs to administer the new county motor fuels tax. The administrative cost estimate in the table above reflects the funds necessary to hire 37 additional FTEs, additional professional staff personnel, and resources to administer, collect, and enforce a new county motor fuels tax from fiscal year 2010 to 2014. The administrative cost estimate also reflects a one-time technology cost of $12,500,000 in fiscal year 2010 for programming/project management.

TDLR estimates the population of used automotive parts recyclers to be 1,363 and the employees of used automotive parts recyclers to be 2,726. TDLR anticipates 390 complaints annually, of which 100 will be jurisdictional and 27 will lead to risk based inspections. TDLR estimates it will hold 3 administrative hearings annually. Based on information provided by TDLR, it is assumed the agency would need an additional 4.0 FTEs each year: 1.0 legal assistant, 1.0 administrative assistant, and 2.0 additional investigators to assist in conducting periodic and risk based inspections. This analysis assumes total costs would be $247,342 in fiscal year 2010 and $220,742 each year thereafter. This analysis also includes one-time start-up costs for computers and office equipment. This analysis assumes that any increased costs to TDLR, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase in fee generated revenue. Based on information provided by the TCEQ, the DPS, the Office of the Attorney General, and TxDOT, it is assumed that duties and responsibilities for each of these agencies associated with implementing the provisions of the bill related to the regulation of used automotive parts recyclers could be accomplished within current resources.

Based on the information and analysis provided by TxDOT, this analysis assumes 300 of the new Choose Life specialty license plates would be issued each year at a fee of $30 each of which $7.50 would be deposited to the State Highway Fund for TxDOT administrative expenses; $0.50 would be

retained by the counties; and $22 would be deposited to the new Choose Life Account in the General Revenue Fund.

Based on the analysis of TxDOT and SAC staff, it is assumed the transportation planning and coordination between TxDOT and MPOs and RPOs could be accommodated within existing resources. Additionally, it is assumed any staff and funding assistance provided by TxDOT to RPOs would be accommodated within the department's existing transportation planning budget.

Based on the analysis of TxDOT, it is assumed any other costs or duties associated with implementing the provisions of the bill could be absorbed within existing resources.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

TxDOT indicates that there are currently no unobligated Proposition 14 bond proceeds that would be available for deposit to the Texas Transportation Revolving Fund (Fund). Therefore, it is assumed TTC would provide money for deposit to the Fund from Proposition 12 General Obligation Bond proceeds (contingent upon the enactment of enabling legislation) or from existing State Highway Fund or Texas Mobility Fund appropriations to TxDOT that are not otherwise obligated for the payment of bond debt service or outstanding construction contract obligations. It is assumed the use of existing State Highway Fund and Texas Mobility Fund appropriations for deposit to the Fund would result in a decrease of funds from these sources that the department could use for new construction contracts or bond issuances.

Based on the analysis of the Texas Department of Transportation, it is assumed the amendment to 21.042 of the Property Code could result in increased costs for the acquisition of highway right of way through condemnation. Because the factors considered in evaluating the value of the property to be condemned and estimating damages to a property owner would vary by case, any additional costs or negative fiscal implications to the state cannot be determined.

Local Government Impact

The potential costs to municipalities to compensate owners of outdoor signs under the provisions of the bill would vary. Costs for compensation are likely to be higher for cities with more stringent billboard ordinances.

The fiscal impact to units of local government would vary depending on whether they are selected for, an urban passenger rail demonstration program, choose to hold an election concerning local option funding, the options pursued, and the decisions of the voters. At a minimum, there would be election costs. If funding options are approved, there would be revenue gains that would vary depending on the options implemented.

It is unknown which or how many local government entities would seek to borrow funds from the Texas Transportation Revolving Fund proposed in the bill. The fiscal impact would vary by entity depending on the amount of financial assistance received. It is assumed an entity would seek financial assistance for which it would have sufficient resources for repayment.

Any costs to units of local government connected to implementing the provisions of the proposed subsection (i) of Section 21.042 of the Property Code would depend on the determination of the special commissioners.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 601 Department of Transportation

LBB Staff: JOB, KJG, MW, TG, SD

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 23, 2009

TO: Honorable John Carona, Chair, Senate Committee on Transportation & Homeland Security

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB300** by Isett (Relating to the continuation and functions of the Texas Department of Transportation, including the transfer of certain functions to the Texas Department of Motor Vehicles and the Texas Department of Licensing and Regulation; providing penalties.), **Committee Report 2nd House, Substituted.**

Estimated Two-year Net Impact to General Revenue Related Funds for HB300, Committee Report 2nd House, Substituted: a negative impact of ($132,052,800) through the biennium ending August 31, 2011.

Depending on the number of counties that elected to impose a county motor fuels tax, there would be an indeterminate amount of revenue gain to the state and units of local government. Due to the provisions of the bill, the Comptroller's office would incur costs of $17,556,000 for the biennium ending August 31, 2011 for administration of county motor fuels taxes. However, these costs are specifically contingent upon an interlocal agreement with one or more local entities in which the Comptroller would receive sufficient funding in advance of the effective date of any motor fuels tax imposed by a county to adequately cover these costs. If the Comptroller does not receive funding in a timely manner as determined by the Comptroller, the Comptroller is not required to enforce the provisions of this Act. Therefore, there would be no effect on the state budget for these provisions.

The bill would re-appropriate in fiscal year 2010 any unobligated and unexpended balance of any appropriations made to the Texas Department of Transportation for the 2008-09 biennium related to programs that would be transferred to the new Department of Motor Vehicles.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	($45,208,000)
2011	($104,400,800)
2012	($176,276,400)
2013	($248,148,000)
2014	($320,020,950)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/ (Cost) from *General Revenue Fund* 1	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1	Probable Savings/ (Cost) from *State Highway Fund* 6	Probable Revenue Gain/(Loss) from *State Highway Fund* 6
2010	($45,455,342)	$247,342	($688,067)	$67,985,000
2011	($104,621,542)	$220,742	($688,067)	$82,261,250
2012	($176,497,142)	$220,742	($688,067)	($3,426,250)
2013	($248,368,742)	$220,742	($688,067)	($4,933,750)
2014	($320,241,692)	$220,742	($688,067)	($6,441,250)

Fiscal Year	Probable Revenue Gain/(Loss) from *Hwy Beautification Acct* 71	Probable Revenue Gain/(Loss) from *Counties*	Change in Number of State Employees from FY 2009
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related to the bonds that become due, including payments under credit agreements. This provision of the bill would only take effect if a specific appropriation for the implementation is included in a General Appropriations Act of the Eighty-first Legislature.

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This bill would implement recommendations in the Legislative Budget Board's (LBB's) *Government Effectiveness and Efficiency Report to the Eighty-First Legislature, 2009*, entitled "Improve State Coordination of the Development of a Passenger Rail System." The bill would add Chapter 92 to the Transportation Code to require the Texas Department of Transportation (TxDOT) to coordinate activities regarding passenger rail and to create and annually update a plan for a statewide passenger rail system. TxDOT would be required to select between one and five metropolitan planning organizations (MPOs) to design, construct, and implement an urban passenger rail demonstration project and certain other mobility improvement projects and to report to the legislature annually on the demonstration programs. The bill sets forth requirements of, application procedures for, and the powers and duties of a county involved in an urban passenger rail demonstration project.

The bill would create Chapter 180 as part of Title 5, Transportation Code, regarding local options for funding urban passenger rail demonstration and mobility improvement projects. The provisions of this chapter would apply only to counties meeting certain criteria and selected by TxDOT for an urban passenger rail demonstration project. The bill authorizes applicable counties to impose (1) a tax on the retail sale of gasoline or diesel fuel of 2, 4, 6, 8, or 10 cents per gallon; (2) a mobility improvement fee of between $1 and $60; and (3) a driver's license renewal fee between $1 and the state renewal fee amount. Any money the county would receive from the methods of finance authorized by this bill would be deposited into a County Mobility Improvement Fund (fund). The bill sets forth requirements applying to TxDOT, counties imposing an applicable method of finance, the Comptroller, and the Department of Public Safety relating to methods of finance authorized by this chapter and makes conforming changes. The bill provides for three options on the use and distribution of money collected from a county motor fuel tax, depending on requirements of the state constitution, including the possibility that one-fourth of the tax be allocated to the Available School Fund. The above provisions of the bill would take effect immediately upon enactment, assuming that the bill receives the requisite two-thirds majority vote in both houses of the Legislature. Otherwise this section would take effect September 1, 2009.

The bill would require the Texas Department of Licensing and Regulation (TDLR) to license and regulate used automotive parts recyclers and employees of used automotive parts recyclers. The bill would require the presiding officer of the Commission of Licensing and Regulation to appoint five members to a Used Automotive Parts Recycling Advisory Board for the purposes of providing advice and recommendations to the TDLR on technical matters relevant to the administration and enforcement of licensing standards. The bill would authorize TDLR to establish and collect fees. The bill would require TDLR to perform periodic and risk-based inspections on licensees at the place of business. The bill would establish terms of license eligibility, administrative penalties, and criminal penalties. The bill would require a used automotive parts recycler to file certain reports regarding vehicle title acquisition, notification of vehicle dismantling, and records of purchase and inventory of parts with TxDOT. The bill would require TxDOT to provide the used automotive parts

recycler with receipts for the reports, records, and other specified documentation. The license requirement and enforcement requirements would take effect September 1, 2010.

The bill would amend the Transportation Code to create the Texas Transportation Revolving Fund to be held in the Texas Treasury Safekeeping Trust Company and to be administered by the TTC through TxDOT. The bill would require TTC to file an annual report with the Governor, Lieutenant Governor, and the LBB providing certain information on the operation of the fund. The bill would authorize TTC to deposit to the fund proceeds from the sale of State Highway Fund revenue bonds (Proposition 14), bonds authorized Section 49-p, Article III, Texas Constitution (Proposition 12 General Obligation Bonds), and proceeds from the sale of revenue bonds backed by the fund as authorized by the bill; repayments of principal and interest on loans made from the fund as authorized by the bill; funds provided by TTC from the State Highway Fund, Texas Mobility Fund, and/or any other source designated by TTC; and from direct appropriations to the fund. Interest income from investments of money in the funds would also be deposited to the fund.

The bill would authorize TTC to issue revenue bonds backed by the fund. The bonds would be special obligations of TTC and would not constitute a debt of the state or a pledge of the faith and credit of the state. The bill would authorize TTC to use money held in the fund to provide financial assistance to a public entity for the costs of a transportation project and to pay debt service on revenue bonds backed by the fund. The bill would authorize a public entity that is authorized by law to construct, maintain, or finance a transportation project to borrow money from the fund and to pledge revenues, income, and pledge, levy, and collect taxes (subject to constitutional limitation) for the repayment of a loan or other financial assistance from the fund. The bill would authorize TTC to require the entity receiving financial assistance to make charges, levy and collect taxes, pledge revenues, or otherwise take actions necessary to provide for money in an amount sufficient for repayment under the terms and conditions of the financial assistance/loan. For a tolled project, TTC would be authorized to require that revenues from the project be shared between the entity and the commission based on the terms and conditions of a revenue sharing agreement between TTC and the entity. The bill would authorize TTC to sell any loans made from money in the fund, the proceeds from which would be deposited to the fund. The bill would require a competitive bid process for the sale of loans. The bill would require TTC to adopt rules to establish eligibility and prioritization criteria for entities applying for financial assistance and for projects that may receive financial assistance; specify the method for setting the terms and conditions for providing financial assistance from the fund; and establish procedures for the sale of loans originated from amounts on deposit in the fund. The bill would require TTC to appoint a rules advisory committee to advise TxDOT and TTC on the development of the initial rules.

The bill would take effect September 1, 2009 except as otherwise noted for specific sections of the bill.

Methodology

Based on the analysis of Sunset Advisory Commission (SAC) staff it is assumed the provisions of the bill that require the deposit of outdoor rural sign fee and penalty revenues to the General Revenue – Dedicated Highway Beautification Account No. 27 instead of the State Highway Fund would result in a $115,000 revenue gain to the General Revenue - Dedicated Fund and a corresponding decrease to State Highway Fund in each fiscal year.

Based on the analysis of TxDOT and SAC staff, it is assumed the establishment of a rail transportation division within TxDOT would require one additional FTE for a division director at a salary of $64,435 each year. Employee benefits costs for the additional FTE are estimated to be $18,409 each year.

Based on information provided by TxDOT and SAC staff, it is assumed approximately 622 full-time-equivalent (FTE) positions and $103.7 million for each fiscal year would be transferred from TxDOT to the new DMV. It is also assumed the new DMV would require four additional FTEs: one Executive Director ($150,000 per year), two FTEs for executive management and board support ($209,600 total per year), and one auditor position ($66,838 per year). Employee benefits costs associated with the four new FTEs is estimated to be $121,833 per year (28.57 percent of annual salary). It is assumed the travel and support expenses for the nine-member board of the DMV would cost an estimated $56,952 each year. It is assumed any unobligated and unexpended TxDOT appropriations from the 2008-09 state fiscal biennium would be re-appropriated to the DMV and would be used to cover any additional transition costs. It is assumed any appropriations transferred from TxDOT and any new appropriations made to the new DMV would be made from the State Highway Fund.

Based on the analysis of the SAO, it is assumed the financial audit of the new DMV would require 1.3 FTEs and 2,000 hours to complete at a cost of $180,000 in fiscal year 2010.

Based on the analysis of the Bond Review Board, the debt service estimates in the table above assume $1 billion in general obligation bonds for highway improvement projects would be issued each year from fiscal year 2010 through fiscal year 2014 with a 6 percent interest rate and 30-year level debt service structure. The estimated debt service payments would increase to $359.4 million in fiscal year 2015 and continue through fiscal year 2044.

Note: The $5.0 billion in general obligation bonds for highway improvement projects, authorized by voters in the November 2007 election, is assumed to be repaid with General Revenue Funds. As not self-supporting general obligation debt, these bonds are currently factored into the state's constitutional debt limit. As of the end of fiscal year 2008, the constitutional debt limit for issued and unissued debt is 4.09 percent. As specified in Article III, Section 49-j of the Texas Constitution, the Legislature may not authorize debt if the maximum annual debt service in any fiscal year on state debt payable from the General Revenue Fund exceeds 5 percent of an amount equal to the average of the amount of General Revenue Fund revenues for the three preceding fiscal years. This limitation includes amounts for authorized but unissued bonds. The Bond Review Board estimates that if a 30-year amortization schedule is used for these bonds with a 6 percent interest rate, this bill would decrease the current 4.09 percent debt limit by 0.20 percent to 3.89 percent.

TxDOT estimates there are approximately 400,000 fleet vehicles in Texas and that approximately 37,500 fleet vehicles would be added each fiscal year (FY). Based on the analysis of TxDOT, it is assumed half of the current fleet vehicles (200,000) would apply for an 8-year fleet registration in FY 2010, the remaining half would apply for a 8-year fleet registration in FY 2011, and an additional 37,500 would apply in FY 2011 and each year thereafter. All applicable fees would be paid in advance for the 10-year period. For the purposes of this analysis, it is assumed 67 percent of the registration fees would be deposited to the State Highway Fund and 33 percent would be retained by the counties. The tables above also reflect the impact of the $10/$5 optional county road and bridge fee, of which 97 percent is deposited to county road and bridge funds and 3 percent to the State Highway Fund. It is assumed half of the fleet vehicles would be registered in counties assessing the $10 optional fee and the remainder would be registered in counties assessing a $5 optional fee. Based on current law, the new $10 fleet management fee and one-time $1.50 plate manufacturing fee would be deposited to the State Highway Fund. The advance payment of all applicable fees would result in a revenue gain in the initial year of the fleet registration and a revenue loss in subsequent years as the fleet vehicles would not be required to pay annual fees until the term of the fleet registration has expired.

The Comptroller has indicated it will incur costs to administer the new county motor fuels tax. The administrative cost estimate in the table above reflects the funds necessary to hire 37 additional FTEs, additional professional staff personnel, and resources to administer, collect, and enforce a new county motor fuels tax from fiscal year 2010 to 2014. The administrative cost estimate also reflects a one-time technology cost of $12,500,000 in fiscal year 2010 for programming/project management.

TDLR estimates the population of used automotive parts recyclers to be 1,363 and the employees of used automotive parts recyclers to be 2,726. TDLR anticipates 390 complaints annually, of which 100 will be jurisdictional and 27 will lead to risk based inspections. TDLR estimates it will hold 3 administrative hearings annually. Based on information provided by TDLR, it is assumed the agency would need an additional 4.0 FTEs each year: 1.0 legal assistant, 1.0 administrative assistant, and 2.0 additional investigators to assist in conducting periodic and risk based inspections. This analysis assumes total costs would be $247,342 in fiscal year 2010 and $220,742 each year thereafter. This analysis also includes one-time start-up costs for computers and office equipment. This analysis assumes that any increased costs to TDLR, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase in fee generated revenue. Based on information provided by the TCEQ, the DPS, the Office of the Attorney General, and TxDOT, it is assumed that duties and responsibilities for each of these agencies associated with implementing the provisions of the bill related to the regulation of used automotive parts recyclers could be accomplished within current resources.

Based on the analysis of TxDOT and SAC staff, it is assumed the transportation planning and coordination between TxDOT and MPOs and RPOs could be accommodated within existing resources. Additionally, it is assumed any staff and funding assistance provided by TxDOT to RPOs would be accommodated within the department's existing transportation planning budget.

Based on the analysis of TxDOT, it is assumed any other costs or duties associated with implementing the provisions of the bill could be absorbed within existing resources.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a

dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

TxDOT indicates that there are currently no unobligated Proposition 14 bond proceeds that would be available for deposit to the Texas Transportation Revolving Fund (Fund). Additionally, the issuance of Proposition 12 General Obligation Bonds is not currently authorized in statute, and therefore is not currently an available funding source for the Fund. Therefore, it is assumed TTC would provide money for deposit to the Fund from existing State Highway Fund or Texas Mobility Fund appropriations to TxDOT that are not otherwise obligated for the payment of bond debt service or outstanding construction contract obligations. It is assumed the use of existing State Highway Fund and Texas Mobility Fund appropriations for deposit to the Fund would result in a decrease of funds from these sources that the department could use for new construction contracts or bond issuances.

Local Government Impact

The potential costs to municipalities to compensate owners of outdoor signs under the provisions of the bill would vary. Costs for compensation are likely to be higher for cities with more stringent billboard ordinances.

The fiscal impact to units of local government would vary depending on whether they are selected for, an urban passenger rail demonstration program, choose to hold an election concerning local option funding, the options pursued, and the decisions of the voters. At a minimum, there would be election costs. If funding options are approved, there would be revenue gains that would vary depending on the options implemented.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 601 Department of Transportation

LBB Staff: JOB, KJG, MW, TG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 17, 2009

TO: Honorable John Carona, Chair, Senate Committee on Transportation & Homeland Security

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB300** by Isett (Relating to the continuation and functions of the Texas Department of Transportation, including the governance of the department and the transfer of certain functions of the department to the Texas Department of Motor Vehicles and the office of the governor; providing penalties.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB300, As Engrossed: a negative impact of ($121,800) through the biennium ending August 31, 2011.

The bill would re-appropriate in fiscal year 2010 any unobligated and unexpended balance of any appropriations made to the Texas Department of Transportation for the 2008-09 biennium related to programs that would be transferred to the new Department of Motor Vehicles and the Office of the Governor.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	($60,900)
2011	($60,900)
2012	($60,900)
2013	($60,900)
2014	($60,900)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/ (Cost) from *General Revenue Fund* 1	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1	Probable Savings/ (Cost) from *State Highway Fund* 6	Probable Revenue Gain/(Loss) from *State Highway Fund* 6
2010	($70,000)	$9,100	($3,622,441)	($119,600)
2011	($70,000)	$9,100	($3,773,747)	($119,600)
2012	($70,000)	$9,100	($3,773,747)	($119,600)
2013	($70,000)	$9,100	($3,773,747)	($119,600)
2014	($70,000)	$9,100	($3,773,747)	($119,600)

Fiscal Year	Probable Revenue Gain/(Loss) from *Hwy Beautification Acct* 71	Probable Revenue Gain/(Loss) from *Parks/Wildlife Cap Acct* 5004	Probable Revenue Gain/(Loss) from *New General Revenue Dedicated Choose Life and Choose Adoption Account*	Probable Revenue Gain/(Loss) from *Counties*
2010	$115,000	$6,600	$6,600	$300
2011	$115,000	$6,600	$6,600	$300
2012	$115,000	$6,600	$6,600	$300
2013	$115,000	$6,600	$6,600	$300
2014	$115,000	$6,600	$6,600	$300

Fiscal Year	Change in Number of State Employees from FY 2009
2010	45.0
2011	45.0
2012	45.0
2013	45.0
2014	45.0

Fiscal Analysis

The bill would amend provisions in the Transportation Code, regarding the continuation and functions of the Texas Department of Transportation (TxDOT) and the transfer of certain functions of TxDOT to a new Texas Department of Motor Vehicles and the Governor's Office. The bill would extend the sunset abolition date for TxDOT to September 1, 2013.

The bill would amend the Transportation Code to reconfigure the Texas Transportation Commission (TTC) to consist of fourteen members elected from geographic districts apportioned by the legislature at its first regular session after the publication of each United States decennial census, and one member elected at large. The bill would establish that the member elected at large is the chair of the commission and would serve a four-year term. The bill would establish that members elected from geographic districts serve two-year terms. The bill would remove the statutory provision establishing an executive director position at TxDOT.
The bill would create the Transportation Legislative Oversight Committee (TLOC), composed of eight members, including the chairs of the House and Senate committees on transportation, two Senate members appointed by the Lieutenant Governor, and two House members appointed by the Speaker of the House, and the chairs of the Senate Finance Committee and House Committee on Appropriations. The bill would authorize the TLOC to contract with an outside consulting firm to make recommendations regarding an effective and efficient organizational structure for TxDOT. The bill would require the transfer to the TLOC of all TxDOT employees who primarily perform duties associated with the department's government and public affairs research section on the effective date of the bill.

The bill would allow the use of money in the General Revenue – Dedicated Highway Beautification Account for the regulation of outdoor signs on rural roads. The bill would require the deposit of certain license fees and penalties related to the regulation of outdoor signs on rural roads to the General Revenue – Dedicated Highway Beautification Account rather than the State Highway Fund. The bill would require a municipality to pay just compensation to the owner of a sign if the removal of a sign is required because of a road project and the relocation of the sign is prohibited by local charter or ordinances. The bill would authorize a person who receives notice from TxDOT of the revocation or denial of an application of an outdoor sign permit or an administrative penalty to make a written request to the TTC for an administrative hearing with the State Office of Administrative Hearings to appeal the TxDOT action. The bill would require TxDOT to establish an outdoor advertising advisory committee to assist the TTC regarding rules and regulations related to outdoor signs along highways and roads and to submit a biennial report to the applicable House and Senate committees with recommendations for statutory changes related to outdoor advertising. Advisory committee members would not be entitled to compensation or reimbursement of expenses from TTC or TxDOT. The bill would require TxDOT to administer a permitting process for outdoor advertising for sexually-oriented businesses that is adjacent to or visible from certain sections of highway near the Texas-Oklahoma border.

The bill would create the Texas Department of Motor Vehicles (DMV) and a board of the DMV consisting of nine members appointed by the Governor with the advice and consent of the Senate. The bill would require the transfer of all responsibilities, personnel, computers, other property and equipment, and related materials of the Motor Carrier Division, Motor Vehicle Division, and the Vehicle Titles and Registration Division of TxDOT to the DMV on December 1, 2009. The bill would transfer and re-appropriate to the DMV in fiscal year 2010 any unobligated and unexpended balance of any appropriations made to TxDOT for the state fiscal biennium ending August 31, 2009 (2008-09 biennium) for the transferred programs. The bill would require the board of the DMV and TTC to adopt or revise a joint MOU to coordinate the agencies' information systems to allow for the sharing of information and to implement the MOU using existing personnel and resources. The bill would require the Governor to appoint the DMV board members not later than December 1, 2009.

The bill would transfer responsibilities related to the Automobile Burglary and Theft Prevention Authority (ABTPA) from TxDOT to the Office of the Governor and transfer the personnel, computers, other property and equipment, and related materials used by ABTPA to the Office of the Governor. The bill would

transfer and re-appropriate to the Office of the Governor in fiscal year 2010 any unobligated and unexpended balance of any appropriations made to TxDOT for the state fiscal biennium ending August 31, 2009 (2008-09 biennium) relating to the ABTPA.

The bill would prohibit TxDOT from entering into a comprehensive development agreement (CDA) for a toll project that contains a provision that limits or prohibits the construction, improvement, operation, or maintenance of a nontolled highway by TxDOT or a provision that requires TxDOT to reimburse a private entity for the loss of toll revenue attributable to the construction of a nontolled highway.

The bill would amend the Transportation Code to repeal provisions pertaining to the establishment, development, operation, financing, and acquisition of right-of-way for the Trans-Texas Corridor.

The bill would establish a rail transportation division within TxDOT and would establish certain duties of the division related to the transportation planning, development, and financing for passenger and freight rail. The bill would require the creation of a rail relocation advisory group, to be composed of four members appointed by the Lieutenant Governor and four members appointed by the Speaker of the House of Representatives, to advise TxDOT on the implementation and administration of rail relocation and improvement planning and projects. The bill would authorize the reimbursement of the members of the advisory group for travel expenses.

The bill would require the TLOC or the TTC to appoint an inspector general who reports to the commission and would prescribe the duties of the inspector general.

The bill would require the Chief Financial Officer of the Texas Department of TxDOT on September 1 of every odd numbered year to issue a 10-year cash flow forecast for each method and category of funding, which is to be used by the TTC to allocate funding to planning organizations. The bill would require the allocated funds to be deposited to subaccounts for each region in the State Highway Fund. The bill would require each planning organization to develop a 10-year transportation plan for the use of funding allocated to the region and would require TxDOT to compile the planning organizations' project selections to develop a statewide transportation program and budget. The bill would require TxDOT to review the plans of each planning organization to ensure they are in compliance with federal requirements and provide assistance to correct deficiencies. The bill would require TTC to adopt rules to create funding formulas for different types of transportation projects. The bill would authorize the use of funds allocated to planning organizations for transportation projects costs, payment of debt service, repayment of loans from another region, or to fund planning organization operations. The bill would establish a cap on the amount of allocated funds that may be used for planning organization operations at the lesser of 10 percent or $10 million if the planning organization is located in a transportation management area; or the lesser of 10 percent or $3 million if the planning organization is not located in a transportation management area. The bill would require TxDOT to develop a 10-year business work plan based on the planning organizations' 10-year plans. The bill would require TxDOT to develop performance measures specified by the bill and require the TTC to review performance biennially.

The bill would require the Comptroller to submit a report to the Governor and the Legislative Budget Board (LBB), in collaboration with TxDOT, the Texas Board of Professional Engineers, and statewide organizations that represent general contractors and engineering companies, regarding TxDOT engineering and project delivery personnel and private sector consultant usage. The report would include a cost analysis of internal and consultant planning, design, and management activities to be conducted by an independent contract cost accounting firm. The report must include an attrition plan to reach a staffing level determined by the report, and TxDOT would be required to implement any staffing actions prescribed by the report, subject to approval by the LBB.

The bill would amend Chapter 222 of the Transportation Code regarding use of taxes collected on property in a municipal transportation reinvestment zone and in a county transportation zone and deposited into a tax increment account. The bill would also change the criteria for which municipalities and counties would be authorized to create a transportation reinvestment zone. The bill would authorize a municipality or a county, notwithstanding other subsections, to establish a transportation zone for any transportation project. In addition, if all or part of a transportation project in the zone is subject to oversight by the TxDOT, TxDOT would be required, at the option of the governing body of the municipality or county, to delegate full responsibility for the development, design, letting of bids, and construction of the project, including project oversight and inspection to the municipality or county, provided that TTC or TxDOT may take any action that is necessary to comply with any federal requirement to enable the state to receive federal-aid highway funds. A project on the state highway system must comply with state design criteria unless TxDOT were to grant an exception to the municipality or county.

The bill would amend the Transportation Code to authorize a toll project entity to establish a discount program for electronic toll collection customers. The bill would require the program to include free or discounted use

of an entity's toll project by a customer whose electronic toll collection account relates to a vehicle registered with a disabled veterans or Purple Heart specialty license plate or a person who has received the Medal of Honor. The bill would authorize the legislature to appropriate funds from the General Revenue fund to defray the cost of providing free or discounted use of the entity's toll project.

The bill would amend Section 201.706 of the Transportation Code to require TxDOT to provide out of appropriated funds a total value of assistance to counties for materials to repair and maintain county roads of at least $18 million per year rather than $6 million as required under current law.

The bill would require TxDOT to establish business development and program office to administer a disadvantaged business enterprise and small business enterprise programs.

The bill would require TxDOT to establish a process to certify district environmental specialists within the department, including specialists for matters regarding compliance with state and federal regulation of stormwater runoff and control.

The bill would require TxDOT's schedule for liquidated damages associated with project completion delay for highway construction projects with a planned construction duration of more than six months to provide for liquidated damages to be paid by a contractor to business entities located in a project area that are adversely affected by project completion delays. The bill would require TxDOT to incorporate the schedule in each applicable highway construction contract, receive claims from applicable business entities claiming damages; and collect and send the damages to business entities as provided by the schedule. Under the provisions of the bill, TxDOT would hold damages paid by a contractor in trust outside the treasury for the benefit of an adversely affected business entity.

The bill would authorize the TxDOT, a county, regional tollway authority, or regional mobility authority to enter into an agreement to provide funds to a state or federal agency to expedite the state or federal agency's environmental review process for certain transportation projects.

The bill would amend the Government Code to require contracts of the Texas Department of Transportation that relate to highway construction or highway engineering to include the provisions authorizing the State Auditors Office to audit any entity receiving state funds.

The bill would authorize the Texas Transportation Commission (TTC) to authorize the creation of a higher-speed rail authority in each border region for the purposes of financing, acquiring property for, constructing, maintaining, operating, and improving a higher-speed rail system in each border region. The bill would establish the authorities, powers, duties, requirements, restrictions, and governing body for a higher-speed authority. The bill would exempt the property, material purchases, revenues, and income of an authority and the interest on a bond or note issued by an authority from all taxes imposed by this state or a political subdivision of this state. The bill would impose a sales and use tax on items sold on authority property and would abolish all other local sales and use taxes that would otherwise be imposed on authority property. The bill would require the Comptroller to administer, collect, and enforce a tax imposed by the bill and to remit to the authority the local sales and use tax collected on the authority's property.

The bill would authorize the Governor to execute a compact with other states to study the feasibility of rapid rail transit service between certain states and to establish a Southern High-Speed Rail Commission, which would include seven members from Texas. The members would be entitled to reimbursement for reasonable expenses incurred while performing commission duties.

The bill would amend the Transportation Code to require the TTC to create the Texas High-speed Rail Corporation. The bill would require the corporation to have a seven member board appointed by TTC as prescribed by the bill. The bill would authorize TTC to direct the corporation to solicit federal economic stimulus funding. The bill would establish requirements for the development of high-speed rail. The bill would require TxDOT to submit an annual report regarding the activities of TxDOT and the corporation.

The bill would amend the Transportation Code to require TTC to establish rules for the distribution of state grants for public transportation, which include provisions ensuring that no recipient of state funding under the statutory formula and discretionary program receives an amount of funding that is less than the total amount of state funding received under those programs in the state fiscal year beginning September 1, 2003.

The bill would require the TxDOT to issue "Choose Life" and "Choose Adoption" specialty license plates. The bill would require the fee for issuance of the license plates, after deduction for TxDOT's administrative costs, to be deposited to the credit of a new Choose Life and Choose Adoption account in the General Revenue Fund. The bill would require the Attorney General to administer the account. The bill would specify that money in

the account could only be spent to make grants to an eligible organization and to defray the costs of administering the account. The bill would require the Attorney General by rule to establish guidelines for the expenditures; report on expenditure compliance; and appoint a seven-member advisory committee to assist in developing rules, reviewing grant applications, and making grant recommendations.

The bill would amend the Transportation Code to include fire protection personnel to the list of firefighters for which TxDOT is required to issue specialty license plates. The bill would authorize the issuance of up to three sets, rather than one set, of the specialty license plates and specifies that the fee for issuance of each set of license plates is $4 for volunteer firefighters and $30 for fire protection personnel. The bill would amend the Transportation Code to allow the sponsor of a specialty license plate for professional firefighters to nominate a state agency for receipt of funds from the specialty plate fees. The bill would specify that the fees, after deduction of TxDOT's administrative expenses, are to be deposited to the credit of an account in the state treasury to be used by the nominated state agency for making grants to support activities of a professional firefighters organization that meets the requirements specified by the bill.

The bill would amend the Transportation Code to require the TxDOT to issue specialty license plates for Municipal Judges, Justices of the Peace, and City Officials.

The bill would require TxDOT to issue Notre Dame Alumni Association specialty license plates.

The bill would require TxDOT to issue San Antonio Spurs specialty license plates for which the issuance fees, after deduction of TxDOT's administrative expenses, would be deposited to the credit of the Texas Parks and Wildlife Conservation and Capital Account No. 5004.

The bill would require TxDOT to erect General Service signs in lieu of tourist-oriented directional sign (TODS) upon the request of owners of recreational vehicle or camping areas. The bill would require TTC to create rules to determine viable alternatives to the current TODS program pricing methodology.

The bill would require TxDOT to establish a pilot program in at least one county that is part of a regional mobility authority to study the feasibility of assessing a road user fee based on the number of miles traveled in Texas by a motor vehicle. The bill would require certain criteria be included in the program and would authorize TxDOT to contract with an RMA or the Texas Transportation Institute, or both, to implement or administer the program. The bill would require TxDOT to submit a report to the legislature that includes recommendations regarding the feasibility of implementing a road user fee based on the number of miles traveled and legislation to implement the fee. The bill would require TxDOT to set the amount of the road user fee on a per mile basis and sets forth requirements for consideration in determining the amount of the fee.

The bill would require TxDOT to use, or enter into a contract to use, at least 10,000 cubic yards per year of glass cullet gathered in the State of Texas as a replacement for aggregate material, starting in the year that begins on or after January 1, 2010.

The bill would require TxDOT to conduct a study on the construction of sound barrier walls with beautification elements along a portion of State Highway 288 in Houston and submit the results of the study to TTC no later than December 31, 2010.

The bill would require TxDOT, not later than September 1, 2010, to evaluate the material authorized for use in a temporary motor vehicle tag, available alternative materials, and the visibility and effectiveness of various types of materials; and, if TxDOT determines the materials currently used are not effective, the bill would require TTC to adopt new specifications for temporary tags.

The bill would require TxDOT, upon verification that the County and City of Presidio have obtained appropriate financing, to sell and convey the Presidio International Bridge to the City and County of Presidio at cost. The bill would allow TxDOT to maintain up to a 10 percent minority share of ownership of the bridge.

The bill would require the TxDOT to consider offering the unusable remainder of real property not to be used for right-of-way purposes to a nonprofit corporation designated by the municipality in which the real property is located or, if the real property is not located in a municipality, by the county in which the real property is located, without cost or expense to the designated nonprofit corporation.

The bill would require the TTC to adopt rules to provide procedures for appealing a decision by a TxDOT district office to deny access to a specific location on a controlled access highway, including procedures that allow an applicant to appeal the denial.

The bill would require TxDOT to conduct a study regarding the improvement of traffic-control signalizations that considers methods for promoting more efficient traffic flow and reduction in vehicle idling time. The bill would prohibit TxDOT from spending more than $200,000 on the study and would require TxDOT report the results of the study to the Governor, the Lieutenant Governor, the Speaker of the House, and the appropriate oversight committees of each house of the legislature by December 1, 2010.

The bill would place photographic traffic enforcement system in Texas under the jurisdiction of TxDOT and would require TxDOT to adopt rules regarding the specifications for systems, the identification of intersections where systems may be installed, and the operation and maintenance of the systems. The bill would prohibit TxDOT from approving the implementation or operation of a system that was not in operation or for which a contract for the operation or enforcement had not been entered into by a local authority on June 1, 2009. The bill would prohibit a local authority from entering into or renewing a contract for the operation or enforcement of a system after June 1, 2009. The bill would require TxDOT, by rule, to require an extended light change interval for traffic signals with a photographic signal enforcement system. This provision would take effect immediately if the bill receives a vote of two-thirds of all members elected to each house or otherwise on September 1, 2009.

The bill would amend the Government Code and create the Texas Participation Transportation Fund, a dedicated account in the General Revenue Fund. The Comptroller would provide grants and loans to a municipality, county, regional mobility authority, or regional tollway authority for eligible toll or nontoll road projects as determined by the Comptroller.

The bill would authorize a law enforcement agency (Department of Public Safety, sheriff's departments, and municipal police departments) to equip each vehicle used in a K-9 law enforcement program with a heat alarm system that meets standards established in the bill.

The bill would require a county tax assessor-collector to accept a check or credit card invoice for the payment of motor vehicle registration fees and motor vehicle title transfer fees. The bill would amend the Local Government Code to require a county tax assessor-collector to accept payment by electronic means as a conditional payment of a county or state fee or tax.

The bill would amend the Utilities Code to authorize a common carrier, energy transporter, or gas utility to lay and maintain lines along, over, under, and across public roads, railroad, a canal or stream, or municipal street or alley, provided that the entity promptly restore the affected facilities to their former condition and usefulness.

Except as otherwise provided by the bill, the bill would take effect on September 1, 2009.

Methodology

Based on the analysis of TxDOT, it is assumed any costs associated with an increase in the number of transportation commissioners to 15 from five would be absorbed within existing resources.

Based on the analysis of Sunset Advisory Commission staff, it is assumed 6 FTEs and approximately $1.2 million in State Highway Fund appropriations would transfer from TxDOT to the TLOC to assist in implementing the duties of the TLOC prescribed by the bill.

Based on information provided by TxDOT and Sunset Advisory Commission staff, it is assumed approximately 707 full-time-equivalent (FTE) positions and $94.4 million for each fiscal year would be transferred from TxDOT to the new DMV. It is also assumed the new DMV would require four additional FTEs: one Executive Director ($150,000 per year), two FTEs for executive management and board support ($209,600 total per year), and one auditor position ($66,838 per year). Employee benefits costs associated with the four new FTEs is estimated to be $121,833 per year (28.57 percent of annual salary). It is assumed the travel and support expenses for the nine-member board of the DMV would cost an estimated $56,952 each year. Costs in the table above for fiscal year 2010 reflect three fiscal quarters of funding (December 1, 2009, start date). It is assumed any unobligated and unexpended TxDOT appropriations from the 2008-09 state fiscal biennium would be re-appropriated to the DMV and would be used to cover any additional transition costs.

Based on information provided by TxDOT and Sunset Advisory Commission staff, it is assumed 5 FTEs and approximately $15.1 million for each fiscal year related to the ABTPA would be transferred from TxDOT to the office of the Governor for grants and administration.

It is assumed any appropriations transferred from TxDOT and any new appropriations made to the new DMV and the Office of the Governor would be made from the State Highway Fund.

Based on the analysis of TxDOT and Sunset Advisory Commission staff, it is assumed the establishment of a rail transportation division within TxDOT would require one additional FTE for a division director at a salary of $64,435 each year. Employee benefits costs for the additional FTE are estimated to be $18,409 each year.

Based on the analysis of TxDOT, it is assumed the costs of a study to assess the costs of internal and contracted transportation planning and design would be accommodated using existing resources.

Based on the analysis of TxDOT, the provisions of the bill would allow planning organizations to utilize up to $131 million from the regional transportation funding allocations for their operations. It is assumed the use of these of funds for planning organization operations would be offset by an equal reduction in expenditures for transportation construction.

TxDOT indicates that the bond indenture related to the Central Texas Turnpike System (CTTS) does not provide the flexibility for a toll reduction or exemption program for disabled veterans. It is assumed General Revenue funds would be required if TxDOT were to implement the discount program on the CTTS. Based on the information provided by TxDOT on the number of vehicles registered to disabled veterans in Travis and Williamson Counties (3,378 total), it is assumed the costs to the state for implementing a discount toll program would not be significant.

TxDOT indicates that 194 construction projects (approximately 18 percent of all current projects) are currently in liquidated damages for project completion delays. Based on the analysis of TxDOT, it is assumed that if each delayed project adversely affected 10 businesses, the agency would need 40 FTE Financial Examiner positions ($60,000 per year, each) at a cost of $2.4 million per year from the State Highway Fund to review and process an estimated 1,940 claims for damages from affected business entities each fiscal year. Employee benefit costs associated with the additional FTEs is estimated to be $685,680 each year (28.57 percent of salary).

Based on the analysis of the State Office of Administrative Hearings, it is assumed that any costs or duties associated with implementing the provisions of the bill could be absorbed within the agency's existing resources.

Based on the analysis of the State Auditor's Office, any costs or duties associated with implementing the provisions of the bill could be absorbed within the agency's existing resources.

Based on the analysis of the TxDOT, the Office of the Attorney General, and the Comptroller of Public Accounts, it is assumed that duties and responsibilities associated with the creation and administration of higher-speed rail authorities could be accomplished by utilizing existing resources.

According to the Office of the Governor, the Southern High-Speed Rail Commission states that the annual operating budget cost per state is approximately $70,000. It is assumed these costs would be covered by General Revenue Funds.

Based on the information and analysis provided by TxDOT, this analysis assumes 300 "Choose Life" and "Choose Adoption" plates would be issued each year at a fee of $30 each of which $7.50 would be deposited to the State Highway Fund for TxDOT administrative expenses; $0.50 would be credited to the counties; and $22 would be deposited to the new Choose Life and Choose Adoption Account in the General Revenue Fund. Based on the analysis of TxDOT and the Office of the Attorney General, it is assumed any costs or duties associated with implementing the provisions of the bill could be absorbed within the agencies' existing resources.

Based on the information and analysis provided by TxDOT, this analysis assumes 300 San Antonio Spurs specialty license plates would be issued each year at a fee of $30 each of which $7.50 would be deposited to the State Highway Fund for TxDOT administrative expenses; $0.50 would be credited to the counties; and $22 would be deposited to the Texas Parks and Wildlife Conservation and Capital Account No. 5004.

TxDOT indicates that fees from the Professional Firefighters specialty license plates are currently deposited to the State Highway Fund. Based on the information and analysis provided by TxDOT and the Comptroller's office, it is assumed the provisions of the authorizing the sponsor of the specialty plates to nominate a state agency as the recipient of the specialty plate fees would result in the transfer of $9,100 from the State Highway Fund to the General Revenue Fund, beginning in fiscal year 2010.

Based on the analysis of TxDOT, it is assumed the issuance of Notre Dame Alumni Association specialty plates would not result in a significant impact to state revenues, and any costs would be absorbed within the agency's existing resources.

Based on the analysis of TxDOT, it is assumed any costs or duties associated with assuming control over photographic traffic enforcement systems could be absorbed within the agency's existing resources. For the purposes of this analysis, it is assumed existing systems would remain in operation under the jurisdiction of TxDOT.

Depending on how many eligible road projects would be submitted by local entities and eligible for state funding under the Texas Participation Transportation Fund program, there could be significant costs to the state. Money deposited to the new General Revenue Account - Texas Local Participation Transportation consisting of money transferred to the fund at the direction of the legislature, gifts and grants, interest and earnings from investments of the fund, and money repaid by local project sponsors cannot be determined. The fees to be charged by the Comptroller from project sponsors to cover administrative costs cannot be determined.

The Department of Public Safety indicates it already has a heat alarm system that meets the standards installed in its K-9 law enforcement program vehicles; therefore, no new costs would be incurred for the state.

Based on the analysis and information provided by TxDOT, it is assumed any costs or duties incurred by the department to implement other provisions of the bill could be absorbed within existing resources.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

The potential costs to municipalities to compensate owners of outdoor signs under the provisions of the bill would vary. Costs for compensation are likely to be higher for cities with more stringent billboard ordinances.

The fiscal impact of implementing the proposed requirements for use of tax increments in a transportation reinvestment zone would vary depending on the projects to be funded. Regarding change in eligibility to create a transportation reinvestment zone, based on information provided by the Texas Association of Counties and the Texas Municipal League, it is assumed that a municipality or a county would designate a transportation reinvestment zone and undertake a transportation project only if there were sufficient resources available or the net fiscal impact would be positive.

The costs to a toll project entity for establishing a toll discount program would vary depending on the number of veterans that would register for the program, and the number that would use the toll projects in an area; however, some costs could be offset by state funds.

It is assumed that costs to local governmental entities for participating in the creation, administration, operation, and financing of higher-speed rail systems in this state would depend on the size and type of the projects that are constructed. The bill would also grant the authority the ability to establish fees, maintain rates, obtain grants, and issue bonds at a level to pay all expenses necessary for operations, maintenance, and repayment of any bond debt.

The bill would direct TTC to make changes in the method it uses to allocate funding to the designated recipients of State formula funds for public transportation. According to TxDOT, there are 39 rural transit districts and 30 urban transit districts that would be affected. The fiscal impact to a specific local governmental entity could be significant, but would vary depending on the amount of funding for public transportation each rural and urban transit district received or lost.

Local law enforcement agencies that already use a heat alarm system that meets the proposed standards would experience no fiscal impact. If an agency that does not currently use a system were to choose to install a system that meets the required standards, the agency would incur costs that would vary by agency, depending on how many vehicles would require the equipment. Dallas County reports the cost of a heat alarm system to be $600.

Regarding accepting payments of motor vehicle registration fees and motor vehicle title transfer fees, the fiscal impact to local governments would vary by county depending on whether under the current permissive statute the tax assessor-collector is set up as would be required by the bill.

Source Agencies: 116 Sunset Advisory Commission, 308 State Auditor's Office, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 601 Department of Transportation

LBB Staff: JOB, KJG, TG, MW

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION
Revision 1

May 4, 2009

TO: Honorable Joseph Pickett, Chair, House Committee on Transportation

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB300** by Isett (Relating to the continuation and functions of the Texas Department of Transportation, including the governance of the department and the transfer of certain functions of the department to the Texas Department of Motor Vehicles and the office of the governor; providing penalties.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB300, Committee Report 1st House, Substituted: an impact of $0 through the biennium ending August 31, 2011.

The bill would re-appropriate in fiscal year 2010 any unobligated and unexpended balance of any appropriations made to the Texas Department of Transportation for the 2008-09 biennium related to programs that would be transferred to the new Department of Motor Vehicles and the Office of the Governor.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	$0
2011	$0
2012	$0
2013	$0
2014	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/ (Cost) from *State Highway Fund* 6	Probable Revenue Gain/(Loss) from *State Highway Fund* 6	Probable Revenue Gain/(Loss) from *Hwy Beautification Acct* 71	Change in Number of State Employees from FY 2009
2010	$536,761	($115,000)	$115,000	5.0
2011	$688,067	($115,000)	$115,000	5.0
2012	$688,067	($115,000)	$115,000	5.0
2013	$688,067	($115,000)	$115,000	5.0
2014	$688,067	($115,000)	$115,000	5.0

Fiscal Analysis

The bill would amend provisions in the Transportation Code, regarding the continuation and functions of the Texas Department of Transportation (TxDOT) and the transfer of certain functions of TxDOT to a new Texas Department of Motor Vehicles and the Governor's Office. The bill would extend the sunset abolition date for TxDOT to September 1, 2013.

The bill would create the Transportation Legislative Oversight Committee (TLOC), composed of six members,

including the chairs of the House and Senate committees on transportation, two Senate members appointed by the Lieutenant Governor, and two House members appointed by the Speaker of the House. The bill would authorize the TLOC to contract with an outside consulting firm to make recommendations regarding an effective and efficient organizational structure for TxDOT. The bill would require the transfer to the TLOC of all TxDOT employees who primarily perform duties associated with the department's government and public affairs research section on the effective date of the bill.

The bill would allow the use of money in the General Revenue – Dedicated Highway Beautification Account for the regulation of outdoor signs on rural roads. The bill would require the deposit of certain license fees and penalties related to the regulation of outdoor signs on rural roads to the General Revenue – Dedicated Highway Beautification Account rather than the State Highway Fund. The bill would require a municipality to pay just compensation to the owner of a sign if the removal of a sign is required because of a road project and the relocation of the sign is prohibited by local charter or ordinances. The bill would authorize a person who receives notice from TxDOT of the revocation or denial of an application of an outdoor sign permit or an administrative penalty to make a written request to the TTC for an administrative hearing with the State Office of Administrative Hearings to appeal the TxDOT action.

The bill would create the Texas Department of Motor Vehicles (DMV) and a board of the DMV consisting of nine members appointed by the Governor with the advice and consent of the Senate. The bill would require the transfer of all responsibilities, personnel, computers, other property and equipment, and related materials of the Motor Carrier Division, Motor Vehicle Division, and the Vehicle Titles and Registration Division of TxDOT to the DMV on December 1, 2009. The bill would transfer and re-appropriate to the DMV in fiscal year 2010 any unobligated and unexpended balance of any appropriations made to TxDOT for the state fiscal biennium ending August 31, 2009 (2008-09 biennium) for the transferred programs. The bill would require the board of the DMV and TTC to adopt or revise a joint MOU to coordinate the agencies' information systems to allow for the sharing of information and to implement the MOU using existing personnel and resources. The bill would require the Governor to appoint the DMV board members not later than December 1, 2009.

The bill would transfer responsibilities related to the Automobile Burglary and Theft Prevention Authority (ABTPA) from TxDOT to the Office of the Governor and transfer the personnel, computers, other property and equipment, and related materials used by ABTPA to the Office of the Governor. The bill would transfer and re-appropriate to the Office of the Governor in fiscal year 2010 any unobligated and unexpended balance of any appropriations made to TxDOT for the state fiscal biennium ending August 31, 2009 (2008-09 biennium) relating to the ABTPA.

The bill would establish a rail transportation division within TxDOT and would establish certain duties of the division related to the transportation planning, development, and financing for passenger and freight rail.

The bill would require TxDOT to fill only one of every five positions funded out of Strategy A.1.1, Plan/Design/Manage, in the General Appropriations Act (GAA) for the planning, design, and management of transportation projects so that staffing levels would be reduced by 40 percent from the level existing as of August 31, 2009, or to a level not to exceed 2,500 positions, with commensurate reductions in associated administrative costs. The bill would authorize the Legislative Budget Board (LBB) to modify the requirement if a study by the State Council on Competitive Government, performed at the request of the LBB, finds that TxDOT cannot obtain services from the private sector on a cost-effective basis to fulfill functions that would otherwise be provided by TxDOT personnel. The bill would require TxDOT to pay for the costs of the study through an interagency contract.

The bill would require the TLOC or the TTC to appoint an inspector general who reports to the commission and would prescribe the duties of the inspector general.

The bill would require the Chief Financial Officer of the Texas Department of TxDOT on September first of every odd numbered year to issue a 10-year cash flow forecast for each method and category of funding, which is to be used by the TTC to allocate funding to planning organizations. The bill would require the allocated funds to be deposited to subaccounts for each region in the State Highway Fund. The bill would require each planning organization to develop a 10-year transportation plan for the use of funding allocated to the region and would require TxDOT to compile the planning organizations' project selections to develop a statewide transportation program and budget. The bill would require TxDOT to review the plans of each planning organization to ensure they are in compliance with federal requirements and provide assistance to correct deficiencies. The bill would require TTC to adopt rules to create funding formulas for different types of transportation projects. The bill would authorize the use of funds allocated to planning organizations for transportation projects costs, payment of debt service, repayment of loans from another region, or to fund planning organization operations. The bill would establish a cap on the amount of allocated funds that may be used for planning organization operations at the lesser of 10 percent or $10 million if the planning organization

is located in a transportation management area; or the lesser of 10 percent or $3 million if the planning organization is not located in a transportation management area. The bill would require TxDOT to develop a 10-year business work plan based on the planning organizations' 10-year plans. The bill would require TxDOT to develop performance measures specified by the bill and require the TTC to review performance biennially.

The bill would amend Chapter 222 of the Transportation Code regarding use of taxes collected on property in a municipal transportation reinvestment zone and in a county transportation zone and deposited into a tax increment account. The bill would also change the criteria for which municipalities and counties would be authorized to create a transportation reinvestment zone. The bill would authorize a municipality or a county, notwithstanding other subsections, to establish a transportation zone for any transportation project. In addition, if all or part of a transportation project in the zone is subject to oversight by the TxDOT, TxDOT would be required, at the option of the governing body of the municipality or county, to delegate full responsibility for the development, design, letting of bids, and construction of the project, including project oversight and inspection to the municipality or county, provided that TTC or TxDOT may take any action that is necessary to comply with any federal requirement to enable the state to receive federal-aid highway funds. A project on the state highway system must comply with state design criteria unless TxDOT were to grant an exception to the municipality or county.

The bill would authorize the Texas Transportation Commission (TTC) to authorize the creation of a higher-speed rail authority in each border region for the purposes of financing, acquiring property for, constructing, maintaining, operating, and improving a higher-speed rail system in each border region. The bill would establish the authorities, powers, duties, requirements, restrictions, and governing body for a higher-speed authority. The bill would exempt the property, material purchases, revenues, and income of an authority and the interest on a bond or note issued by an authority from all taxes imposed by this state or a political subdivision of this state. The bill would impose a sales and use tax on items sold on authority property and would abolish all other local sales and use taxes that would otherwise be imposed on authority property. The bill would require the Comptroller to administer, collect, and enforce a tax imposed by the bill and to remit to the authority the local sales and use tax collected on the authority's property.

The bill would amend the Transportation Code to require TTC to establish rules for the distribution of state grants for public transportation, which include provisions ensuring that no recipient of state funding under the statutory formula and discretionary program receives an amount of funding that is less than the total amount of state funding received under those programs in the state fiscal year beginning September 1, 2004.

The bill would take effect on September 1, 2009.

Methodology

Based on the analysis of Sunset Advisory Commission staff, it is assumed 6 FTEs and approximately $1.2 million in State Highway Fund appropriations would transfer from TxDOT to the TLOC to assist in implementing the duties of the TLOC prescribed by the bill.

Based on information provided by TxDOT and Sunset Advisory Commission staff, it is assumed approximately 707 full-time-equivalent (FTE) positions and $94.4 million for each fiscal year would be transferred from TxDOT to the new DMV. It is also assumed the new DMV would require four additional FTEs: one Executive Director ($150,000 per year), two FTEs for executive management and board support ($209,600 total per year), and one auditor position ($66,838 per year). Employee benefits costs associated with the four new FTEs is estimated to be $121,833 per year (28.57 percent of annual salary). It is assumed the travel and support expenses for the nine-member board of the DMV would cost an estimated $56,952 each year. Costs in the table above for fiscal year 2010 reflect three fiscal quarters of funding (December 1, 2009, start date). It is assumed any unobligated and unexpended TxDOT appropriations from the 2008-09 state fiscal biennium would be re-appropriated to the DMV and would be used to cover any additional transition costs.

Based on information provided by TxDOT and Sunset Advisory Commission staff, it is assumed 5 FTEs and approximately $15.1 million for each fiscal year related to the ABTPA would be transferred from TxDOT to the office of the Governor for grants and administration.

It is assumed any appropriations transferred from TxDOT and any new appropriations made to the new DMV and the Office of the Governor would be made from the State Highway Fund.

Based on the analysis of TxDOT and Sunset Advisory Commission staff, it is assumed the establishment of a rail transportation division within TxDOT would require one additional FTE for a division director at a salary of $64,435 each year. Employee benefits costs for the additional FTE are estimated to be $18,409 each year.

It is assumed any cost savings associated with a reduction in TxDOT's transportation planning, design, and management staff funded out of GAA Strategy A.1.1. Plan/Design/Manage, would be reallocated for contracted planning and design services and other transportation-related purposes. It is assumed the costs of a study to assess the costs of internal and contracted transportation planning and design would be accommodated using existing resources.

Based on the analysis of TxDOT, the provisions of the bill would allow planning organizations to utilize up to $131 million from the regional transportation funding allocations for their operations. It is assumed the use of these of funds for planning organization operations would be offset by an equal reduction in expenditures for transportation construction.

Based on the analysis of the State Office of Administrative Hearings, it is assumed that any costs or duties associated with implementing the provisions of the bill could be absorbed within existing resources.

Based on the analysis of the TxDOT, the Office of the Attorney General, and the Comptroller of Public Accounts, it is assumed that duties and responsibilities associated with the creation and administration of higher-speed rail authorities could be accomplished by utilizing existing resources.

Local Government Impact

The potential costs to municipalities to compensate owners of outdoor signs under the provisions of the bill would vary. Costs for compensation are likely to be higher for cities with more stringent billboard ordinances.

The fiscal impact of implementing the proposed requirements for use of tax increments in a transportation reinvestment zone would vary depending on the projects to be funded. Regarding change in eligibility to create a transportation reinvestment zone, based on information provided by the Texas Association of Counties and the Texas Municipal League, it is assumed that a municipality or a county would designate a transportation reinvestment zone and undertake a transportation project only if there were sufficient resources available or the net fiscal impact would be positive.

It is assumed that costs to local governmental entities for participating in the creation, administration, operation, and financing of higher-speed rail systems in this state would depend on the size and type of the projects that are constructed. The bill would also grant the authority the ability to establish fees, maintain rates, obtain grants, and issue bonds at a level to pay all expenses necessary for operations, maintenance, and repayment of any bond debt.

The bill would direct TTC to make changes in the method it uses to allocate funding to the designated recipients of State formula funds for public transportation. According to TxDOT, there are 39 rural transit districts and 30 urban transit districts that would be affected. The fiscal impact to a specific local governmental entity could be significant, but would vary depending on the amount of funding for public transportation each rural and urban transit district received or lost.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 601 Department of Transportation

LBB Staff: JOB, KJG, TG, MW

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 4, 2009

TO: Honorable Joseph Pickett, Chair, House Committee on Transportation

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB300** by Isett (Relating to the continuation and functions of the Texas Department of Transportation, including the governance of the department and the transfer of certain functions to the Texas Department of Motor Vehicles and the Office of the Governor; providing penalties.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB300, Committee Report 1st House, Substituted: an impact of $0 through the biennium ending August 31, 2011.

The bill would re-appropriate in fiscal year 2010 any unobligated and unexpended balance of any appropriations made to the Texas Department of Transportation for the 2008-09 biennium related to programs that would be transferred to the new Department of Motor Vehicles and the Office of the Governor.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	$0
2011	$0
2012	$0
2013	$0
2014	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/ (Cost) from *State Highway Fund* 6	Probable Revenue Gain/(Loss) from *State Highway Fund* 6	Probable Revenue Gain/(Loss) from *Hwy Beautification Acct* 71	Change in Number of State Employees from FY 2009
2010	$536,761	($115,000)	$115,000	5.0
2011	$688,067	($115,000)	$115,000	5.0
2012	$688,067	($115,000)	$115,000	5.0
2013	$688,067	($115,000)	$115,000	5.0
2014	$688,067	($115,000)	$115,000	5.0

Fiscal Analysis

The bill would amend provisions in the Transportation Code, regarding the continuation and functions of the Texas Department of Transportation (TxDOT) and the transfer of certain functions of TxDOT to a new Texas Department of Motor Vehicles and the Governor's Office. The bill would extend the sunset abolition date for TxDOT to September 1, 2013.

The bill would create the Transportation Legislative Oversight Committee (TLOC), composed of six members, including the chairs of the House and Senate committees on transportation, two Senate members appointed by

the Lieutenant Governor, and two House members appointed by the Speaker of the House. The bill would authorize the TLOC to contract with an outside consulting firm to make recommendations regarding an effective and efficient organizational structure for TxDOT. The bill would require the transfer to the TLOC of all TxDOT employees who primarily perform duties associated with the department's government and public affairs research section on the effective date of the bill.

The bill would allow the use of money in the General Revenue – Dedicated Highway Beautification Account for the regulation of outdoor signs on rural roads. The bill would require the deposit of certain license fees and penalties related to the regulation of outdoor signs on rural roads to the General Revenue – Dedicated Highway Beautification Account rather than the State Highway Fund. The bill would require a municipality to pay just compensation to the owner of a sign if the removal of a sign is required because of a road project and the relocation of the sign is prohibited by local charter or ordinances. The bill would authorize a person who receives notice from TxDOT of the revocation or denial of an application of an outdoor sign permit or an administrative penalty to make a written request to the TTC for an administrative hearing with the State Office of Administrative Hearings to appeal the TxDOT action.

The bill would create the Texas Department of Motor Vehicles (DMV) and a board of the DMV consisting of nine members appointed by the Governor with the advice and consent of the Senate. The bill would require the transfer of all responsibilities, personnel, computers, other property and equipment, and related materials of the Motor Carrier Division, Motor Vehicle Division, and the Vehicle Titles and Registration Division of TxDOT to the DMV on December 1, 2009. The bill would transfer and re-appropriate to the DMV in fiscal year 2010 any unobligated and unexpended balance of any appropriations made to TxDOT for the state fiscal biennium ending August 31, 2009 (2008-09 biennium) for the transferred programs. The bill would require the board of the DMV and TTC to adopt or revise a joint MOU to coordinate the agencies' information systems to allow for the sharing of information and to implement the MOU using existing personnel and resources. The bill would require the Governor to appoint the DMV board members not later than December 1, 2009.

The bill would transfer responsibilities related to the Automobile Burglary and Theft Prevention Authority (ABTPA) from TxDOT to the Office of the Governor and transfer the personnel, computers, other property and equipment, and related materials used by ABTPA to the Office of the Governor. The bill would transfer and re-appropriate to the Office of the Governor in fiscal year 2010 any unobligated and unexpended balance of any appropriations made to TxDOT for the state fiscal biennium ending August 31, 2009 (2008-09 biennium) relating to the ABTPA.

The bill would establish a rail transportation division within TxDOT and would establish certain duties of the division related to the transportation planning, development, and financing for passenger and freight rail.

The bill would require TxDOT to fill only one of every five positions funded out of Strategy A.1.1, Plan/Design/Manage, in the General Appropriations Act (GAA) for the planning, design, and management of transportation projects so that staffing levels would be reduced by 40 percent from the level existing as of August 31, 2009, or to a level not to exceed 2,500 positions, with commensurate reductions in associated administrative costs. The bill would authorize the Legislative Budget Board (LBB) to modify the requirement if a study by the State Council on Competitive Government, performed at the request of the LBB, finds that TxDOT cannot obtain services from the private sector on a cost-effective basis to fulfill functions that would otherwise be provided by TxDOT personnel. The bill would require TxDOT to pay for the costs of the study through an interagency contract.

The bill would require the TLOC or the TTC to appoint an inspector general who reports to the commission and would prescribe the duties of the inspector general.

The bill would require the Chief Financial Officer of the Texas Department of TxDOT on September first of every odd numbered year to issue a 10-year cash flow forecast for each method and category of funding, which is to be used by the TTC to allocate funding to planning organizations. The bill would require the allocated funds to be deposited to subaccounts for each region in the State Highway Fund. The bill would require each planning organization to develop a 10-year transportation plan for the use of funding allocated to the region and would require TxDOT to compile the planning organizations' project selections to develop a statewide transportation program and budget. The bill would require TxDOT to review the plans of each planning organization to ensure they are in compliance with federal requirements and provide assistance to correct deficiencies. The bill would require TTC to adopt rules to create funding formulas for different types of transportation projects. The bill would authorize the use of funds allocated to planning organizations for transportation projects costs, payment of debt service, repayment of loans from another region, or to fund planning organization operations. The bill would establish a cap on the amount of allocated funds that may be used for planning organization operations at the lesser of 10 percent or $10 million if the planning organization is located in a transportation management area; or the lesser of 10 percent or $3 million if the planning

organization is not located in a transportation management area. The bill would require TxDOT to develop a 10-year business work plan based on the planning organizations' 10-year plans. The bill would require TxDOT to develop performance measures specified by the bill and require the TTC to review performance biennially.

The bill would amend Chapter 222 of the Transportation Code regarding use of taxes collected on property in a municipal transportation reinvestment zone and in a county transportation zone and deposited into a tax increment account. The bill would also change the criteria for which municipalities and counties would be authorized to create a transportation reinvestment zone. The bill would authorize a municipality or a county, notwithstanding other subsections, to establish a transportation zone for any transportation project. In addition, if all or part of a transportation project in the zone is subject to oversight by the TxDOT, TxDOT would be required, at the option of the governing body of the municipality or county, to delegate full responsibility for the development, design, letting of bids, and construction of the project, including project oversight and inspection to the municipality or county, provided that TTC or TxDOT may take any action that is necessary to comply with any federal requirement to enable the state to receive federal-aid highway funds. A project on the state highway system must comply with state design criteria unless TxDOT were to grant an exception to the municipality or county.

The bill would authorize the Texas Transportation Commission (TTC) to authorize the creation of a higher-speed rail authority in each border region for the purposes of financing, acquiring property for, constructing, maintaining, operating, and improving a higher-speed rail system in each border region. The bill would establish the authorities, powers, duties, requirements, restrictions, and governing body for a higher-speed authority. The bill would exempt the property, material purchases, revenues, and income of an authority and the interest on a bond or note issued by an authority from all taxes imposed by this state or a political subdivision of this state. The bill would impose a sales and use tax on items sold on authority property and would abolish all other local sales and use taxes that would otherwise be imposed on authority property. The bill would require the Comptroller to administer, collect, and enforce a tax imposed by the bill and to remit to the authority the local sales and use tax collected on the authority's property.

The bill would amend the Transportation Code to require TTC to establish rules for the distribution of state grants for public transportation, which include provisions ensuring that no recipient of state funding under the statutory formula and discretionary program receives an amount of funding that is less than the total amount of state funding received under those programs in the state fiscal year beginning September 1, 2004.

The bill would take effect on September 1, 2009.

Methodology

Based on the analysis of Sunset Advisory Commission staff, it is assumed 6 FTEs and approximately $1.2 million in State Highway Fund appropriations would transfer from TxDOT to the TLOC to assist in implementing the duties of the TLOC prescribed by the bill.

Based on information provided by TxDOT and Sunset Advisory Commission staff, it is assumed approximately 707 full-time-equivalent (FTE) positions and $94.4 million for each fiscal year would be transferred from TxDOT to the new DMV. It is also assumed the new DMV would require four additional FTEs: one Executive Director ($150,000 per year), two FTEs for executive management and board support ($209,600 total per year), and one auditor position ($66,838 per year). Employee benefits costs associated with the four new FTEs is estimated to be $121,833 per year (28.57 percent of annual salary). It is assumed the travel and support expenses for the nine-member board of the DMV would cost an estimated $56,952 each year. Costs in the table above for fiscal year 2010 reflect three fiscal quarters of funding (December 1, 2009, start date). It is assumed any unobligated and unexpended TxDOT appropriations from the 2008-09 state fiscal biennium would be re-appropriated to the DMV and would be used to cover any additional transition costs.

Based on information provided by TxDOT and Sunset Advisory Commission staff, it is assumed 5 FTEs and approximately $15.1 million for each fiscal year related to the ABTPA would be transferred from TxDOT to the office of the Governor for grants and administration.

It is assumed any appropriations transferred from TxDOT and any new appropriations made to the new DMV and the Office of the Governor would be made from the State Highway Fund.

Based on the analysis of TxDOT and Sunset Advisory Commission staff, it is assumed the establishment of a rail transportation division within TxDOT would require one additional FTE for a division director at a salary of $64,435 each year. Employee benefits costs for the additional FTE are estimated to be $18,409 each year.

It is assumed any cost savings associated with a reduction in TxDOT's transportation planning, design, and management staff funded out of GAA Strategy A.1.1. Plan/Design/Manage, would be reallocated for contracted planning and design services and other transportation-related purposes. It is assumed the costs of a study to assess the costs of internal and contracted transportation planning and design would be accommodated using existing resources.

Based on the analysis of TxDOT, the provisions of the bill would allow planning organizations to utilize up to $131 million from the regional transportation funding allocations for their operations. It is assumed the use of these of funds for planning organization operations would be offset by an equal reduction in expenditures for transportation construction.

Based on the analysis of the State Office of Administrative Hearings, it is assumed that any costs or duties associated with implementing the provisions of the bill could be absorbed within existing resources.

Based on the analysis of the TxDOT, the Office of the Attorney General, and the Comptroller of Public Accounts, it is assumed that duties and responsibilities associated with the creation and administration of higher-speed rail authorities could be accomplished by utilizing existing resources.

Local Government Impact

The potential costs to municipalities to compensate owners of outdoor signs under the provisions of the bill would vary. Costs for compensation are likely to be higher for cities with more stringent billboard ordinances.

The fiscal impact of implementing the proposed requirements for use of tax increments in a transportation reinvestment zone would vary depending on the projects to be funded. Regarding change in eligibility to create a transportation reinvestment zone, based on information provided by the Texas Association of Counties and the Texas Municipal League, it is assumed that a municipality or a county would designate a transportation reinvestment zone and undertake a transportation project only if there were sufficient resources available or the net fiscal impact would be positive.

It is assumed that costs to local governmental entities for participating in the creation, administration, operation, and financing of higher-speed rail systems in this state would depend on the size and type of the projects that are constructed. The bill would also grant the authority the ability to establish fees, maintain rates, obtain grants, and issue bonds at a level to pay all expenses necessary for operations, maintenance, and repayment of any bond debt.

The bill would direct TTC to make changes in the method it uses to allocate funding to the designated recipients of State formula funds for public transportation. According to TxDOT, there are 39 rural transit districts and 30 urban transit districts that would be affected. The fiscal impact to a specific local governmental entity could be significant, but would vary depending on the amount of funding for public transportation each rural and urban transit district received or lost.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 601 Department of Transportation

LBB Staff: JOB, KJG, TG, MW

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 30, 2009

TO: Honorable Joseph Pickett, Chair, House Committee on Transportation

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB300** by Isett (Relating to the continuation and functions of the Texas Department of Transportation, including the transfer of certain functions to the Texas Department of Motor Vehicles; providing penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB300, As Introduced: an impact of $0 through the biennium ending August 31, 2011.

The bill would re-appropriate in fiscal year 2010 any unobligated and unexpended balance of any appropriations made to the Texas Department of Transportation for the 2008-09 biennium related to programs that would be transferred to the new Department of Motor Vehicles.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	$0
2011	$0
2012	$0
2013	$0
2014	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings from *State Highway Fund* 6	Probable (Cost) from *State Highway Fund* 6	Probable Revenue (Loss) from *State Highway Fund* 6	Probable Revenue Gain from *Hwy Beautification Acct* 71
2010	$950,000	($527,269)	($115,000)	$115,000
2011	$1,370,862	($675,411)	($115,000)	$115,000
2012	$1,587,671	($675,411)	($115,000)	$115,000
2013	$1,587,671	($675,411)	($115,000)	$115,000
2014	$1,587,671	($675,411)	($115,000)	$115,000

Fiscal Year	Change in Number of State Employees from FY 2009
2010	5.0
2011	0.0
2012	0.0
2013	0.0
2014	0.0

Fiscal Analysis

The bill would amend the Transportation Code to eliminate the five-member Texas Transportation Commission and replace the commission and the Executive Director of the Texas Department of Transportation (TxDOT) with a single appointed Commissioner of Transportation. The first Commissioner of Transportation would be appointed to serve a term that begins on January 1, 2011. The five-member commission and the Executive Director serving on the effective date of the bill would continue service until that time.

The bill would create the Transportation Legislative Oversight Committee (TLOC), composed of six members, including the chairs of the House and Senate committees on transportation, two Senate members appointed by the Lieutenant Governor, and two House members appointed by the Speaker of the House. The bill would authorize the TLOC to contract with an outside consulting firm to make recommendations regarding an effective and efficient organizational structure for TxDOT. The bill would require the transfer to the TLOC of all TxDOT employees who primarily perform duties associated with the department's government and public affairs research section on the effective date of the bill.

The bill would require TxDOT to redevelop and regularly update the Statewide Transportation Plan and to coordinate with metropolitan planning organizations (MPO) on funding assumptions for long-range planning. The bill would require TxDOT to establish a transportation project information reporting system that is available on the agency's website. The bill would authorize the creation of rural planning organizations (RPO). TxDOT would be required to facilitate the creation of RPOs with existing resources and provide funds and personnel to assist the RPOs with rural transportation planning.

The bill would eliminate provisions requiring TxDOT to place newspaper advertisements for upcoming construction and maintenance contracts. The bill would authorize TxDOT to use "design-build" contracts for non-tolled highway projects.

The bill would allow the use of money in the General Revenue – Dedicated Highway Beautification Account for the regulation of outdoor signs on rural roads. The bill would require the deposit of certain license fees and penalties related to the regulation of outdoor signs on rural roads to the General Revenue – Dedicated Highway Beautification Account rather than the State Highway Fund. The bill would require a municipality to pay just compensation to the owner of a sign if the removal of a sign is required because of a road project and the relocation of the sign is prohibited by local charter or ordinances.

The bill would create the Texas Department of Motor Vehicles (DMV) and a board of the DMV consisting of seven members appointed by the Governor with the advice and consent of the Senate. The bill would require the transfer of all powers, duties, obligations, rights of action, personnel, furniture, computers, other property and equipment, files, and related materials of the Motor Carrier Division, Motor Vehicle Division, Vehicle Titles and Registration Division, and the Automobile Burglary and Theft Prevention Authority Office of TxDOT to the DMV on December 1, 2009. The bill would transfer and re-appropriate to the DMV in fiscal year 2010 any unobligated and unexpended balance of any appropriations made to TxDOT for the state fiscal biennium ending August 31, 2009 (2008-09 biennium) for the transferred programs.

The bill would establish a rail transportation division within TxDOT and would establish certain duties of the division related to the transportation planning, development, and financing for passenger and freight rail.

The bill would require TxDOT to manage a system of changeable message signs on highways under the jurisdiction of TxDOT for the purpose of mitigating traffic congestion and providing information to the travelling public.

The bill would take effect on September 1, 2009.

Methodology

Based on the analysis and information provided by TxDOT and Sunset Advisory Commission staff, it is assumed the elimination of the five-member transportation commission (effective January 1, 2011) would result in a cost savings to the State Highway Fund of $420,862 in fiscal year 2011 and $637,671 each year thereafter from the elimination of salaries for five commissioners and five assistants (5 full-time-equivalent [FTE] positions) and the associated travel, operating, and employee benefits costs. It is assumed the salary costs for the full-time, appointed Commissioner of Transportation would be accommodated within existing resources.

Based on the analysis of Sunset Advisory Commission staff, it is assumed 6 FTEs and approximately $1.2

million in State Highway Fund appropriations would transfer from TxDOT to the TLOC to assist in implementing the duties of the TLOC prescribed by the bill.

Based on the information provided by TxDOT and Sunset Advisory Commission Staff, it is assumed the elimination of the newspaper advertising requirement for upcoming contracts would result in an annual savings to the State Highway Fund of approximately $950,000 each year.

Based on the analysis of Sunset Advisory Commission staff it is assumed the provisions of the bill that require the deposit of outdoor rural sign fee and penalty revenues to the General Revenue – Dedicated Highway Beautification Account No. 27 instead of the State Highway Fund would result in a $115,000 revenue gain to the General Revenue - Dedicated Fund and a corresponding decrease to State Highway Fund in each fiscal year.

Based on the analysis and information provided by TxDOT and Sunset Advisory Commission staff, it is assumed the new DOV would require an additional four FTEs: one Executive Director ($150,000 per year), two FTEs for executive management and and board support ($209,600 total per year), and one auditor position ($66,838 per year). Employee benefits costs associated with the four new FTEs is estimated to be $121,833 per year (28.57 percent of annual salary). It is assumed the travel and support expenses for the nine-member board of the DOV would cost an estimated $44,296 each year. Since the transfer of powers and duties would not be effective until December 1, 2009, this analysis assumes only 75 percent of the increased costs would be required in fiscal year 2010. It is assumed any unobligated and unexpended TxDOT appropriations from the 2008-09 state fiscal biennium would be re-appropriated to the DMV and would be used to cover any additional transition costs. It is also assumed 712 FTEs and approximately $109.5 million in appropriations would transfer from TxDOT to the new DMV. It is assumed any appropriations transferred from TxDOT and any new appropriations made to the new DMV would be made from the State Highway Fund.

Based on the analysis of TxDOT and Sunset Advisory Commission staff, it is assumed the establishment of a rail transportation division within TxDOT would require one additional FTE for a division director at a salary of $64,435 each year. Employee benefits costs for the additional FTE are estimated to be $18,409 each year.

Based on the analysis of TxDOT and Sunset Advisory Commission staff, it is assumed the transportation planning and coordination between TxDOT and MPOs and RPOs could be accommodated within existing resources. Additionally, it is assumed any staff and funding assistance provided by TxDOT to RPOs would be accommodated within the department's existing transportation planning budget.

Based on the analysis of TxDOT, it is assumed any other costs or duties associated with implementing the provisions of the bill could be absorbed within existing resources.

Local Government Impact

The potential costs to municipalities to compensate owners of outdoor signs under the provisions of the bill would vary. Costs for compensation are likely to be higher for cities with more stringent billboard ordinances.

Source Agencies: 116 Sunset Advisory Commission, 308 State Auditor's Office, 601 Department of Transportation

LBB Staff: JOB, KJG, MW, TG