

BILL ANALYSIS

Senate Research Center

S.B. 1420
By: Hinojosa et al.
Government Organization
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The predecessor to the Texas Department of Transportation (TxDOT), the Texas Highway Department, was created in 1917 to direct county road construction programs. Since then, TxDOT's mission has evolved to delivering a 21st century transportation system by providing for the safe, efficient, and effective means for the movement of people and goods throughout the state.

TxDOT is subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the legislature. TxDOT underwent a special purpose Sunset review, and this bill contains the recommendations that continue to be appropriate for consideration by the legislature.

The Sunset Advisory Commission concluded that TxDOT has worked diligently to address many of the previous recommendations, but determined more time is needed to judge the depth and effect of the changes before trust and confidence in TxDOT is fully restored. This bill continues the agency and contains several additional statutory modifications that seek to address the demand for more transparency, accountability, and responsiveness from TxDOT.

S.B. 1420 amends current law relating to the continuation and functions of the Texas Department of Transportation and provides penalties.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Transportation (TxDOT) in SECTION 18 (Section 201.607, Transportation Code) and SECTION 27 (Section 222.006, Transportation Code) of this bill.

Rulemaking authority is expressly granted to the Texas Transportation Commission (TTC) in SECTION 21 (Sections 201.752 and 201.753, Transportation Code), SECTION 22 (Section 201.801, Transportation Code), SECTION 24 (Section 201.807, Transportation Code), SECTION 25 (Sections 201.991, 201.994, 201.995, and 201.996, Transportation Code), SECTION 30 (Section 223.002, Transportation Code), SECTION 40 (Section 391.006, Transportation Code), SECTION 47 (Section 394.006, Transportation Code), and SECTION 49 (Sections 394.0205 and 394.0206, Transportation Code) of this bill.

Rulemaking authority previously granted to TTC is rescinded in SECTION 22 (Section 201.801, Transportation Code) of this bill.

Rulemaking authority is expressly granted to the Texas State Library and Archives Commission in SECTION 24 (Section 201.808, Transportation Code) of this bill.

Rulemaking authority previously granted to TTC is modified in SECTION 43 (Section 391.065, Transportation Code) of this bill.

Rulemaking authority previously granted to TTC is transferred to the board of the Texas Department of Motor Vehicles (TxDMV) in SECTION 55 (Section 621.003, Transportation Code), SECTION 62 (Section 621.352, Transportation Code), SECTION 63 (Section 621.356, Transportation Code), SECTION 77 (Section 623.076, Transportation Code), SECTION 86

(Section 623.145, Transportation Code), and SECTION 89 (Section 623.195, Transportation Code) of this bill.

Rulemaking authority previously granted to TxDOT is transferred to TTC in SECTION 57 (Section 621.006, Transportation Code) of this bill.

Rulemaking authority is expressly granted to the board of TxDMV in SECTION 58 (Section 621.008, Transportation Code), SECTION 66 (Section 622.002, Transportation Code), and SECTION 70 (Section 623.002, Transportation Code) of this bill.

Rulemaking authority previously granted to TxDOT is transferred to the board of TxDMV in SECTION 71 (Section 623.0112, Transportation Code) and SECTION 81 (Section 623.096, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. (a) Amends Section 12.0011, Parks and Wildlife Code, by adding Subsection (b-1), to require that recommendations and information submitted by the Texas Parks and Wildlife Department (TPWD) under Subsection (b) in response to a request for comments from the Texas Department of Transportation (TxDOT) be submitted not later than the 45th day after the date TPWD receives the request.

(b) Provides that Section 12.0011(b-1), Parks and Wildlife Code, as added by this section, applies only to a request for comments from TxDOT received on or after the effective date of this Act.

SECTION 2. Amends Section 201.001, Transportation Code, by adding Subsection (c), to define, in this chapter, "local transportation entity."

SECTION 3. (a) Amends Section 201.051, Transportation Code, by amending Subsections (b), (d), (f), (g), (h), and (j) and adding Subsection (b-1), as follows:

(b) Requires one member of the Texas Transportation Commission (TTC) to reside in a rural area and be a registered voter of a county with a population of less than 150,000.

(b-1) Prohibits a member of TTC from accepting a contribution to a campaign for election to an elected office. Provides that if a member of TTC (commissioner) accepts a campaign contribution, the person is considered to have resigned from the office and the office immediately becomes vacant. Requires that the vacancy be filled in the manner provided by law.

(d) Provides that a person is not eligible to serve as a commissioner, rather than provides that a person, except as provided by Subsection (e), is not eligible for appointment as a commissioner, 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 TxDOT;

(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 TxDOT;

(3) uses or receives a substantial amount of tangible goods, services, or funds from TxDOT, other than compensation or reimbursement authorized by law for TTC membership, attendance, or expenses; or

(4) is registered, certified, or licensed by TxDOT.

(f) Provides that 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 to serve as a commissioner. Deletes existing text prohibiting a Texas trade association of automobile dealers from being a commissioner.

(g) Provides that 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 to serve as a commissioner. Deletes existing text prohibiting the spouse of an officer, manager, or paid consultant of a Texas trade association of automobile dealers from being a commissioner.

(h) Provides that a person required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of TxDOT is not eligible to, rather than is not authorized to, serve as a commissioner.

(j) Redefines, in this section, "Texas trade association."

(b) Provides that Section 201.051(b), Transportation Code, as amended by this section, does not affect the right of a commissioner serving on the effective date of this Act to complete the commissioner's term. Provides that the requirement of Section 201.051(b), Transportation Code, as amended by this section, applies at the time a vacancy occurs in the position held by the person serving as the rural designee on the effective date of this Act.

SECTION 4. Amends Section 201.053(a), Transportation Code, to require the governor to designate, rather than periodically designate, one commissioner as the chair of TTC, who is required to serve as presiding officer of TTC.

SECTION 5. Amends Section 201.057(a), Transportation Code, to set forth certain grounds for removal from TTC, including if a commissioner does not have at the time of taking office, rather than at the time of appointment, or maintain during service on TTC, the qualifications required by Section 201.051.

SECTION 6. Amends Section 201.058, Transportation Code, to require TxDOT to provide to the commissioners, as often as necessary, information concerning the commissioners' qualification for office, rather than the commissioners' qualifications for office under Subchapter B (Texas Transportation Commission), and their responsibilities under applicable laws relating to standards of conduct for state officers.

SECTION 7. Amends Subchapter C, Chapter 201, Transportation Code, by adding Section 201.1075, as follows:

Sec. 201.1075. CHIEF FINANCIAL OFFICER. (a) Requires the chief financial officer to ensure that TxDOT's financial activities are conducted in a transparent and reliable manner.

(b) Requires the chief financial officer to certify each month that any state highway construction and maintenance contracts to be awarded by TxDOT during that month will not create state liability that exceeds TxDOT's most recent cash flow forecast.

SECTION 8. Amends Subchapter C, Chapter 201, Transportation Code, by adding Sections 201.118 and 201.119, as follows:

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

- (1) negotiated rulemaking procedures under Chapter 2008 (Negotiated Rulemaking), Government Code, for the adoption of TxDOT rules; and
- (2) appropriate alternative dispute resolution procedures under Chapter 2009 (Alternative Dispute Resolution for Use By Governmental Bodies), Government Code, to assist in the resolution of internal and external disputes under TxDOT's jurisdiction.

(b) Requires that TxDOT's procedures relating to alternative dispute resolution 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) Requires TxDOT to:

- (1) coordinate the implementation of the policy adopted under Subsection (a);
- (2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and
- (3) collect data concerning the effectiveness of those procedures.

Sec. 201.119. LEGISLATIVE APPROPRIATIONS REQUEST. (a) Requires TxDOT staff to deliver TxDOT's legislative appropriations request to TTC in an open meeting not later than the 30th day before the date TxDOT submits the legislative appropriations request to the Legislative Budget Board.

(b) Authorizes TTC to adopt the legislative appropriations request in the meeting described by Subsection (a) or in a subsequent open meeting.

SECTION 9. Amends Subchapter Y, Chapter 201, Transportation Code, by adding Section 201.2002, as follows:

Sec. 201.2002. EDMUND P. KUEMPEL REST AREAS. (a) Designates the eastbound and westbound rest areas located on Interstate Highway 10 in Guadalupe County as the Edmund P. Kuempel Rest Areas.

(b) Requires TxDOT to design and construct markers at each rest area described by Subsection (a) indicating the designation of those rest areas as the Edmund P. Kuempel Rest Areas and any other appropriate information.

(c) Requires TxDOT to erect markers at appropriate locations at the rest areas.

(d) Provides that, notwithstanding Subsections (b) and (c), TxDOT is not required to design, construct, or erect a marker under this section unless a grant or donation of private funds is made to TxDOT to cover the cost of the design, construction, and erection of the marker.

(e) Requires that money received under Subsection (d) be deposited to the credit of the state highway fund.

SECTION 10. Amends Section 201.204, Transportation Code, to provide that unless continued in existence as provided by Chapter 325 (Texas Sunset Act), Government Code, TxDOT is abolished September 1, 2015, rather than September 1, 2011.

SECTION 11. Amends Subchapter D, Chapter 201, Transportation Code, by adding Section 201.2041, as follows:

Sec. 201.2041. SUBMISSION OF FINANCIAL AUDIT TO SUNSET COMMISSION. (a) Requires TxDOT to submit with its agency report under Section 325.007 (Agency Report to Commission), Government Code, a complete and detailed financial audit conducted by an independent certified public accountant.

(b) Provides that Subsection (a) does not apply if TxDOT is subject to sunset review during the previous two-year period.

SECTION 12. Amends Subchapter D, Chapter 201, Transportation Code, by adding Sections 201.210 and 201.211, as follows:

Sec. 201.210. LEGISLATIVE LOBBYING. (a) Prohibits TTC, or a TxDOT employee, in addition to Section 556.006 (Legislative Lobbying), Government Code, from using money under TxDOT's control or engaging in an activity to influence the passage or defeat of legislation.

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

(c) Provides that this section does not prohibit TTC or TxDOT 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 or programs.

(d) Prohibits TxDOT from spending from funds appropriated to TxDOT any money for the purpose of 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.), unless that expenditure is allowed under state law.

Sec. 201.211. ETHICS AFFIRMATION AND HOTLINE. (a) Requires a TxDOT employee to annually affirm the employee's adherence to the ethics policy adopted under Section 572.051(c) (requiring each state agency to adopt a written ethics policy for the agency's employees and to distribute a copy of the ethics policy and this subchapter to each new employee and new officer), Government Code.

(b) Requires TxDOT to establish and operate a telephone hotline that enables a person to call the hotline 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.

SECTION 13. (a) Amends Sections 201.401(a) and (b), Transportation Code, as follows:

(a) Prohibits a person from being an employee of TxDOT who is 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.), rather than prohibits a person from being an employee of TxDOT who is exempt from the state's position classification plan or compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule, if the person is:

(1) an officer, employee, or paid consultant of a Texas trade association in the field of road construction or maintenance or outdoor advertising; or

(2) the spouse of an officer, manager, or paid consultant described by Subdivision (1).

(b) Requires a person who acts as general counsel to TxDOT to be licensed as an attorney in this state.

(b) Provides that the changes in law made by this section to Section 201.401, Transportation Code, in the qualifications of the general counsel of TxDOT do not affect the eligibility of a person serving in that position immediately before the effective date of this Act to continue to carry out the position's functions for the remainder of the person's employment as general counsel. Makes application of the changes in law prospective.

SECTION 14. Amends Section 201.404, Transportation Code, by adding Subsections (b-1) and (b-2), as follows:

(b-1) Requires TTC, if an annual performance evaluation indicates unsatisfactory performance by an employee employed in a position at or above the level of district engineer or division or office director, to consider whether the employee should be terminated. Requires that the annual performance evaluation of a position described by this subsection include an evaluation of an employee's professionalism, diligence, and responsiveness to directives and requests from TTC and the legislature.

(b-2) Requires TxDOT, if an annual performance evaluation indicates unsatisfactory performance by an employee employed in a position that is below the level of district engineer, to consider whether the employee should be terminated. Requires TxDOT to provide a report to TTC regarding employees whose performances were unsatisfactory but who were not terminated.

SECTION 15. (a) Amends Chapter 201, Transportation Code, by adding Subchapter F-1, as follows:

SUBCHAPTER F-1. COMPLIANCE PROGRAM

Sec. 201.451. ESTABLISHMENT AND PURPOSE. Requires TTC to establish a compliance program, which must include a compliance office to oversee the program. Provides that the compliance office is responsible for:

- (1) acting to prevent and detect serious breaches of TxDOT policy, fraud, waste, and abuse of office, including any acts of criminal conduct within TxDOT;
- (2) independently and objectively reviewing, investigating, delegating, and overseeing the investigation of conduct described by Subdivision (1), criminal activity in TxDOT, allegations of wrongdoing by TxDOT employees, crimes committed on TxDOT property, and serious breaches of TxDOT policy;
- (3) overseeing the operation of the telephone hotline established under Section 201.211;
- (4) ensuring that members of TTC and TxDOT employees receive appropriate ethics training; and
- (5) performing other duties assigned to the compliance office by TTC.

Sec. 201.452. INVESTIGATION OVERSIGHT. (a) Provides that the compliance office has primary jurisdiction for oversight and coordination of all investigations occurring on TxDOT property or involving TxDOT employees.

(b) Requires the compliance office to coordinate and provide oversight for an investigation under this subchapter, but the compliance office is not required to conduct the investigation.

(c) Requires the compliance office to continually monitor an investigation conducted within TxDOT, and to report to TTC on the status of pending investigations.

Sec. 201.453. INITIATION OF INVESTIGATIONS. Authorizes the compliance office to only initiate an investigation based on authorization from TTC, approval of the director of the compliance office, approval of the executive director or deputy executive director of TxDOT, or TTC rules.

Sec. 201.454. REPORTS. (a) Requires the compliance office to report directly to TTC regarding performance of and activities related to investigations and provide the director with information regarding investigations as appropriate.

(b) Requires the director of the compliance office to present to TTC at each regularly scheduled TTC meeting and at other appropriate times:

(1) reports of investigations; and

(2) a summary of information relating to investigations conducted under this subchapter that includes analysis of the number, type, and outcome of investigations, trends in investigations, and recommendations to avoid future complaints.

Sec. 201.455. COOPERATION WITH LAW ENFORCEMENT OFFICIALS AND OTHER ENTITIES. (a) Requires the director of the compliance office to provide information and evidence relating to criminal acts to the state auditor's office and appropriate law enforcement officials.

(b) Requires the director of the compliance office to refer matters for further civil, criminal, and administrative action to appropriate administrative and prosecutorial agencies, including the attorney general.

Sec. 201.456. AUTHORITY OF STATE AUDITOR. Provides that this subchapter or other law related to the operation of TxDOT's compliance program does not preempt the authority of the state auditor to conduct an audit or investigation under Chapter 321 (State Auditor), Government Code, or other law.

(b) Requires TxDOT, not later than January 1, 2013, to submit a report to the legislature on the effectiveness of the compliance program described by Subchapter F-1, Chapter 201, Transportation Code, as added by this Act, and any recommended changes in law to increase the effectiveness of the compliance program.

SECTION 16. Amends Section 201.601, Transportation Code, as follows:

Sec. 201.601. STATEWIDE TRANSPORTATION PLAN. (a) Requires TxDOT to develop a statewide transportation plan covering a period of 24 years that contains all modes of transportation, including highways and turnpikes, aviation, mass transportation, railroads and high-speed railroads, and water traffic.

(a-1) Requires that the plan:

(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 TxDOT in meeting the goals established under Subdivision (1); and

(3) contain a participation plan specifying methods for obtaining formal input on the goals and priorities identified under this subsection from other state agencies, political subdivisions, local transportation entities, and the general public.

(b) Requires, as appropriate, TxDOT and the entities listed in Subsection (a-1)(3), rather than TxDOT and such an agency or political subdivision, to enter into a memorandum of understanding relating to the planning of transportation services. Deletes existing text requiring TxDOT, in developing the plan, to seek opinions and assistance from other state agencies and political subdivisions that have responsibility for the modes of transportation listed by Subsection (a).

(c) Makes no changes to this subsection.

(d) Requires TxDOT to consider the goals and measurable targets established under Subsection (a-1)(1) in selecting transportation projects, rather than requires TxDOT to consider the performance measures in selecting transportation improvements. Deletes existing text requiring that the plan 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.

(e) Requires TxDOT annually to provide 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 an analysis of TxDOT's progress in attaining the goals under Subsection (a-1)(1). Requires TxDOT to make the information under this subsection available on its Internet website.

(f) Requires TxDOT to update the plan every four years or more frequently as necessary.

SECTION 17. Amends Subchapter H, Chapter 201, Transportation Code, by adding Section 201.6015, as follows:

Sec. 201.6015. INTEGRATION OF PLANS AND POLICY EFFORTS. Requires TxDOT, in developing each of its transportation plans and policy efforts, to clearly reference the statewide transportation plan under Section 201.601 and specify how the plan or policy effort supports or otherwise relates to the specific goals under that section.

SECTION 18. (a) Amends Section 201.607, Transportation Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Requires TxDOT and each state agency that is responsible for the protection of the natural environment or for the preservation of historical or archeological resources, not later than January 1, 1997, and every fifth year after that date, to examine and revise their memorandum of understanding that:

(1)-(3) Makes no changes to these subdivisions;

(4) specifies the period during which the reviewing agency must review the highway project and provide comments to TxDOT, as negotiated by TxDOT and the agency but which may not exceed 45 days after the date the agency receives a request for comments from TxDOT;

(5) specifies that comments submitted to TxDOT later than the period specified under Subdivision (4) will be considered by TxDOT to the extent possible; and

(6) Redesignates existing Subdivision (5) as Subdivision (6).

Makes nonsubstantive changes.

(c) Requires TxDOT by rule to establish procedures concerning coordination with agencies in carrying out responsibilities under agreements under this section.

(b) Provides that Section 201.607(a), Transportation Code, as amended by this section, applies only to a request for comments from TxDOT received by a state agency on or after the effective date of this Act. Requires TxDOT and each affected state agency, as necessary, to promptly revise the memorandum of understanding required by Section 201.607 (Environmental, Historical, or Archeological Memorandum of Understanding), Transportation Code, to implement the change made by this section to Section 201.607(a), Transportation Code.

SECTION 19. Amends Subchapter H, Chapter 201, Transportation Code, by adding Section 201.620, as follows:

Sec. 201.620. COORDINATION WITH METROPOLITAN PLANNING ORGANIZATIONS TO DEVELOP LONG-TERM PLANNING ASSUMPTIONS. Requires TxDOT to collaborate with metropolitan planning organizations 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 in the statewide transportation plan under Section 201.601.

SECTION 20. Amends Subchapter H, Chapter 201, Transportation Code, by adding Section 201.622, as follows:

Sec. 201.622. WILDFIRE EMERGENCY EVACUATION ROUTE. (a) Authorizes TxDOT, notwithstanding Section 418.018 (Movement of People), Government Code, in a county with a population of less than 75,000 and with a verifiable history of wildfire, to designate an emergency evacuation route for use in the event of a wildfire emergency. Authorizes TxDOT to establish criteria to determine which areas of a county are subject to a potential wildfire emergency.

(b) Authorizes TxDOT to assist in the improvement of a designated wildfire emergency evacuation route.

(c) Requires that criteria for determining a wildfire emergency evacuation route provide for evacuation of commercial establishments such as motels, hotels, and other businesses with overnight accommodations.

(d) Authorizes a wildfire emergency evacuation route designated under Subsection (a) to include federal or state highways or county roads.

SECTION 21. (a) Amends Chapter 201, Transportation Code, by adding Subchapter I-1, as follows:

SUBCHAPTER I-1. ENVIRONMENTAL REVIEW PROCESS

Sec. 201.751. DEFINITIONS. Defines, in this subchapter, "day," "Federal Highway Administration," "highway project," and "local government sponsor."

Sec. 201.752. STANDARDS. (a) Requires TTC by rule to establish standards for processing an environmental review document for a highway project. Requires that the standards increase efficiency, minimize delays, and encourage collaboration and cooperation by TxDOT with a local government sponsor, with a goal of prompt approval of legally sufficient documents.

(b) Provides that the standards apply regardless of whether the environmental review document is prepared by TxDOT or a local

government sponsor. Provides that the standards apply to work performed by the sponsor and to TxDOT's review process and environmental decision.

(c) Requires that the standards address, for each type of environmental review document:

(1) the issues and subject matter to be included in the project scope prepared under Section 201.754;

(2) the required content of a draft environmental review document;

(3) the process to be followed in considering each type of environmental review document; and

(4) review deadlines, including the deadlines in Section 201.759.

(d) Requires that the standards include a process for resolving disputes arising under this subchapter, provided that the dispute resolution process must be concluded not later than the 60th day after the date either party requests dispute resolution.

(e) Authorizes the standards, for highway projects described in Section 201.753(a), to provide a process and criteria for the prioritization of environmental review documents in the event TxDOT makes a finding that it lacks adequate resources to timely process all documents it receives. Requires that standards established pursuant to this subsection provide for notification to a local government sponsor if processing of an environmental review document is to be delayed due to prioritization, and ensure that the environmental review document for each highway project will be completed no later than one year prior to the date planned for publishing notice to let the construction contract for the project, as indicated in a document identifying the project under Section 201.753(a)(1) or a TTC order under Section 201.753(a)(2).

Sec. 201.753. ENVIRONMENTAL REVIEW LIMITED TO CERTAIN PROJECTS. (a) Authorizes a local government sponsor or TxDOT to prepare an environmental review document for a highway project only if the highway project is:

(1) identified in the financially constrained portion of the approved state transportation improvement program or the financially constrained portion of the approved unified transportation program; or

(2) identified by TTC as being eligible for participation under this subchapter.

(b) Authorizes a local government sponsor, notwithstanding Subsection (a), to prepare an environmental review document for a highway project that is not identified by TTC or in a program described by Subsection (a) if the sponsor submits with its notice under Section 201.755 a fee in an amount established by TTC rule, but not to exceed the actual cost of reviewing the environmental review document.

(c) Requires that a fee received by TxDOT under Subsection (b) be deposited in the state highway fund and used to pay costs incurred under this subchapter.

Sec. 201.754. SCOPE OF PROJECT. Requires a local government sponsor, if an environmental review document is prepared by the local government sponsor, to prepare a detailed scope of the project in collaboration with TxDOT before TxDOT may process the environmental review document.

Sec. 201.755. NOTICE TO DEPARTMENT. (a) Authorizes a local government sponsor to submit notice to TxDOT proposing that the local government sponsor prepare the environmental review document for a highway project.

(b) Requires that the notice include the project scope prepared under Section 201.754, and a request for classification of the project.

Sec. 201.756. LOCAL GOVERNMENT SPONSOR RESPONSIBILITIES. Provides that a local government sponsor that submits notice under Section 201.755 is responsible for preparing all materials for project scope determination, environmental reports, the environmental review document, environmental permits and conditions, coordination with resource agencies, and public participation.

Sec. 201.757. DETERMINATION OF ADMINISTRATIVELY COMPLETE ENVIRONMENTAL REVIEW DOCUMENT. (a) Requires that a local government sponsor's submission of an environmental review document include a statement from the local government sponsor that the document is administratively complete, ready for technical review, and compliant with all applicable requirements.

(b) Requires TxDOT, not later than the 20th day after the date TxDOT receives a local government sponsor's environmental review document, to either:

(1) issue a letter confirming that the document is administratively complete and ready for technical review; or

(2) decline to issue a letter confirming that the document is administratively complete and ready for technical review, in accordance with Section 201.758.

Sec. 201.758. DEPARTMENT DECLINES TO CONFIRM THAT DOCUMENT IS ADMINISTRATIVELY COMPLETE. (a) Authorizes TxDOT to decline to issue a letter confirming that an environmental review document is administratively complete and ready for technical review only if TxDOT sends a written response to the local government sponsor specifying in reasonable detail the basis for its conclusions, including a listing of any required information determined by TxDOT to be missing from the document.

(b) Requires TxDOT, if TxDOT provides notice under Subsection (a), to undertake all reasonable efforts to cooperate with the local government sponsor in a timely manner to ensure that the environmental review document is administratively complete.

(c) Authorizes the local government sponsor to resubmit any environmental review document determined by TxDOT under Section 201.757 not to be administratively complete, and requires TxDOT to issue a determination letter on the resubmitted document not later than the 20th day after the date the document is resubmitted.

Sec. 201.759. REVIEW DEADLINES. (a) Requires that the following deadlines be included in the standards adopted under Section 201.752:

(1) requires TxDOT to issue a classification letter not later than the 30th day after the date TxDOT receives notice from a local government sponsor under Section 201.755;

(2) requires that for a project classified as a programmatic categorical exclusion, the environmental decision be rendered not later than the 60th day after the date the supporting documentation is received by TxDOT;

(3) requires that for a project classified as a categorical exclusion, the environmental decision be rendered not later than the 90th day after the date the supporting documentation is received by TxDOT;

(4) for a project that requires the preparation of an environmental assessment:

(A) requires that TxDOT provide all TxDOT comments on a draft environmental assessment not later than the 90th day after the date the draft is received by TxDOT; and

(B) requires TxDOT to render the environmental decision on the project not later than the 60th day after the later of:

(i) the date the revised environmental assessment is submitted to TxDOT; or

(ii) the date the public involvement process concludes;

(5) requires TxDOT to render the environmental decision on any reevaluation not later than the 120th day after the date the supporting documentation is received by TxDOT; and

(6) requires TxDOT, for a project that requires the preparation of an environmental impact statement, to render the environmental decision not later than the 120th day after the date the draft final environmental impact statement is submitted.

(b) Provides that review deadlines under this section specify the date by which TxDOT will render the environmental decision on a project or the time frames by which TxDOT will make a recommendation to the Federal Highway Administration, as applicable.

(c) Provides that a deadline that falls on a weekend or official state holiday is considered to occur on the next business day.

Sec. 201.760. SUSPENSION OF TIME PERIODS. Provides that the computation of review deadlines under Section 201.759 does not begin until an environmental review document is determined to be administratively complete, and is suspended during any period in which:

(1) the document that is the subject of the review is being revised by or on behalf of the local government sponsor in response to TxDOT comments;

(2) the highway project is the subject of additional work, including a change in design of the project, and during the identification and resolution of new significant issues; or

(3) the local government sponsor is preparing a response to any issue raised by legal counsel for TxDOT concerning compliance with applicable law.

Sec. 201.761. AGREEMENT BETWEEN LOCAL GOVERNMENT SPONSOR AND DEPARTMENT. Authorizes a local government sponsor and TxDOT, notwithstanding any provision of this subchapter or any other law, to enter into an agreement that defines the relative roles and responsibilities of the parties in the preparation and review of environmental review documents for a specific project. Authorizes the Federal Highway Administration, for a project for which an environmental decision requires the approval of the Federal Highway Administration and to the extent otherwise permitted by law, to also be a party to an agreement between a local government sponsor and TxDOT under this section.

Sec. 201.762. REPORTS TO COMMISSION AND LEGISLATURE. (a) Requires TxDOT, not later than June 30 and December 31 of each year, to submit a report to TTC at a regularly scheduled TTC meeting identifying projects being processed under the procedures of this subchapter and the status of each project, including:

- (1) how the project was classified for environmental review;
- (2) the current status of the environmental review;
- (3) the date on which TxDOT is required to make an environmental decision under applicable deadlines;
- (4) an explanation of any delays; and
- (5) any deadline under Section 201.759 missed by TxDOT.

(b) Requires TxDOT, not later than December 1 of each year, to submit a report to the members of the standing legislative committees with primary jurisdiction over matters related to transportation regarding the implementation of this subchapter, including a status report for the preceding 12-month period that contains the information described in Subsection (a).

(c) Requires TxDOT to post copies of the reports required under this section on its Internet website and to provide a copy of the report required by Subsection (b) to each member of the legislature who has at least one project covered by the report in the member's district.

(d) Requires TxDOT to make available on its Internet website and update regularly the status of projects being processed under this subchapter.

(b) Requires TTC to adopt rules to implement Subchapter I-1, Chapter 201, Transportation Code, as added by this section, not later than March 1, 2012.

(c) Provides that Subchapter I-1, Chapter 201, Transportation Code, as added by this section, applies only to a notice of a local government sponsor proposing the sponsor's preparation of an environmental review document that is received by TxDOT on or after the effective date of this Act. Provides that submissions to TxDOT received before the effective date of this Act are governed by the law in effect on the date the submission was received, and that law is continued in effect for that purpose.

SECTION 22. (a) Amends Section 201.801, Transportation Code, as follows:

Sec. 201.801. New heading: COMPLAINTS. (a) Requires TxDOT to maintain a system to promptly and efficiently act on complaints filed with TxDOT.

Requires TxDOT to 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) Creates this subsection from existing text. Requires TxDOT to make information available describing its procedures for complaint investigation and resolution. Deletes existing text requiring TxDOT to prepare information of public interest describing the functions of TxDOT and TxDOT's procedures by which a complaint is filed with TxDOT and resolved by TxDOT. Deletes existing text requiring TxDOT to make the information available to the public and appropriate state agencies.

(c) Redesignates existing Subsection (d) as Subsection (c). Requires TxDOT to periodically, rather than at least quarterly and until final disposition of a written complaint that is filed with TxDOT and that TxDOT has the authority to resolve, notify the parties to the complaint of its status until final disposition unless the notice would jeopardize an undercover investigation.

(d) Requires TTC to adopt rules applicable to each division and district to establish a process to act on complaints filed with TxDOT.

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

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

(g) Requires TxDOT to:

(1) compile:

(A) detailed statistics and analyze trends on complaint information, including the nature of the complaints, their disposition, and the length of time to resolve complaints;

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

(C) the number of similar complaints filed, and the number of persons who filed each complaint; and

(2) report the information on a monthly basis to the division directors, office directors, and district engineers and on a quarterly basis to TTC.

Deletes existing Subsection (b) requiring TTC by rule to establish methods by which consumers and service recipients are notified of TxDOT's name, mailing address, and telephone number for directing complaints to TxDOT. Deletes existing text authorizing TTC to provide for that notification through certain means as set forth.

Deletes existing Subsection (c) requiring TxDOT to keep an information file about each written complaint filed with TxDOT that TxDOT has the authority to resolve, and provide the person who filed the complaint, and each person or entity that is the subject of the complaint, information

about the TxDOT's policies and procedures relating to complaint investigation and resolution.

Deletes existing Subsection (e) requiring TxDOT, with regard to each complaint filed with TxDOT, to keep certain information as set forth.

(b) Requires TTC to adopt rules under Section 201.801, Transportation Code, as amended by this section, not later than March 1, 2012.

SECTION 23. Amends Section 201.802(a), Transportation Code, to require TTC to develop and implement policies that provide the public with a reasonable opportunity to appear before TTC and speak on any issue under the jurisdiction of TxDOT, rather than TTC.

SECTION 24. (a) Amends Subchapter J, Chapter 201, Transportation Code, by adding Sections 201.807, 201.808, 201.809, 201.810, and 201.811, as follows:

Sec. 201.807. PROJECT INFORMATION REPORTING SYSTEM. (a) Defines, in this section, "department project."

(b) Requires TxDOT to establish a project information reporting system that makes available in a central location on TxDOT's Internet website easily accessible and searchable information regarding all of the TxDOT's transportation plans and programs, including the unified transportation program required by Section 201.991. Requires TxDOT to post information on its Internet website as required by this subsection as the information becomes available to TxDOT and in a manner that is not cost prohibitive. Requires that the project information reporting system contain information about:

(1) each TxDOT project, including the status of the project; each source of funding for the project; benchmarks for evaluating the progress of the project; timelines for completing the project; a list of TxDOT employees responsible for the project, including information to contact each person on that list; and the results of the annual review required under Subsection (e); and

(2) TxDOT's funds, including each source for TxDOT's funds, and the amount and general type or purpose of each expenditure as described in the comptroller of public accounts' (comptroller) statewide accounting system, reported by each TxDOT district; program funding category as required by Section 201.991(b)(2); and type of revenue, including revenue from a comprehensive development agreement or a toll project.

(c) Requires TxDOT, in developing the project information reporting system, to collaborate with the legislature, local transportation entities, and members of the public.

(d) Requires TxDOT to make the statistical information provided under this section available on TxDOT's Internet website in more than one downloadable electronic format.

(e) Requires TxDOT, as a component of the project information reporting system required by this section, to conduct an annual review of the benchmarks and timelines of each project included in TxDOT's transportation plans, including the unified transportation program, to determine the completion rates of the projects and whether the projects were completed on time.

(f) Requires TxDOT to update the information contained in the project information reporting system on a regular basis, as specified by TTC rule.

Sec. 201.808. TRANSPORTATION EXPENDITURE PRIORITIES. (a) Requires TxDOT to 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) Requires TxDOT to establish a transportation expenditure reporting system that makes available in a central location on the TxDOT's Internet website easily accessible and searchable information regarding the priorities of transportation expenditures for the identified transportation projects.

(c) Requires TxDOT to include in the transportation expenditure reporting system:

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

(2) information about the condition of the pavement for each highway under the jurisdiction of TxDOT, including the percentage of pavement that TxDOT determines to be in good or better condition;

(3) the condition of bridges, including information about bridge condition scores;

(4) information about peak hour travel congestion in the eight largest metropolitan areas of the state; and

(5) information about the number of traffic fatalities per 100 million miles traveled.

(d) Requires TxDOT to 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 TxDOT, or type of road.

(e) Requires TxDOT to establish criteria to prioritize the transportation needs for the state that are consistent with the statewide transportation plan.

(f) Requires each TxDOT district to enter information into the transportation expenditure reporting system, including information about each district transportation project, and the category to which the project has been assigned and the priority of the project in the category under Section 201.995.

(g) Requires that the transportation expenditure reporting system allow a person to compare information produced by that system to information produced by the project information reporting system.

(h) Requires TxDOT, to provide a means of verifying the accuracy of information being made available through the transportation expenditure reporting system, to retain and archive appropriate documentation supporting the expenditure information or data summary that is detailed in

the reporting system, by archiving copies of the original supporting documentation in a digital, electronic, or other appropriate format of storage or imaging that allows departmental management and retrieval of the records. Authorizes supporting documentation to include contract or transactional documents, letter agreements, invoices, statements, payment vouchers, requests for object of expenditure payments to be made by or on behalf of TxDOT, and other items establishing the purpose and payment of the expenditure. Requires the documentation to be retained for the applicable period as set forth in rules for records retention and destruction promulgated by the Texas State Library and Archives Commission.

Sec. 201.809. STATEWIDE TRANSPORTATION REPORT. (a) Requires TxDOT annually to evaluate and publish a report about the status of each transportation goal for this state. Requires that the report 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 priority;
- (3) a summary of the number of statewide project implementation benchmarks that have been completed; and
- (4) information about the accuracy of previous TxDOT financial forecasts.

(b) Requires TxDOT to disaggregate the information in the report by TxDOT district.

(c) Requires TxDOT to provide a copy of the district report to each member of the legislature for each TxDOT district located in the member's legislative district, and at the request of a member, a TxDOT employee is required to meet with the member to explain the report.

(d) Requires TxDOT to provide a copy of each district report to the political subdivisions located in the TxDOT district that is the subject of the report, including a municipality, a county, and a local transportation entity.

Sec. 201.810. DEPARTMENT INFORMATION CONSOLIDATION. (a) Authorizes TxDOT, to the extent practicable and to avoid duplication of reporting requirements, to combine the reports required under this subchapter with reports required under other provisions of this code.

(b) Requires TxDOT to develop a central location on TxDOT'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.

Sec. 201.811. PUBLIC INVOLVEMENT POLICY. (a) Requires TxDOT to develop and implement a policy for public involvement that guides and encourages public involvement with TxDOT. Requires that the policy:

- (1) provide for the use of public involvement techniques that target different groups and individuals;
- (2) encourage continuous contact between TxDOT and persons outside TxDOT throughout the transportation decision-making process;

(3) require TxDOT to make efforts toward clearly tying public involvement to decisions made by TxDOT, and providing clear information to the public about specific outcomes of public input;

(4) apply to all public input with TxDOT, including input on statewide transportation policy-making; in connection with the environmental process relating to specific projects; and into TTC's rulemaking procedures; and

(5) require a person who makes or submits a public comment, at the time the comment is made or disclosed, to disclose in writing on a witness card whether the person does business with TxDOT; may benefit monetarily from a project; or is an employee of TxDOT.

(b) Requires TxDOT to document the number of positive, negative, or neutral public comments received regarding all environmental impact statements as expressed by the public through TxDOT's public involvement process. Requires TxDOT to present this information to TTC in an open meeting, and report this information on the TxDOT's Internet website in a timely manner.

(b) Requires TxDOT, not later than September 1, 2011, to establish the central location on TxDOT's Internet website required by Section 201.810, Transportation Code, as added by this section.

SECTION 25. Amends Chapter 201, Transportation Code, by adding Subchapter P, as follows:

SUBCHAPTER P. UNIFIED TRANSPORTATION PROGRAM

Sec. 201.991. UNIFIED TRANSPORTATION PROGRAM. (a) Requires TxDOT to develop a unified transportation program covering a period of 10 years to guide the development of and authorize construction of transportation projects. Requires that the program:

(1) annually identify target funding levels; and

(2) list all projects that the TxDOT intends to develop or begin construction of during the program period.

(b) Requires TTC to adopt rules that:

(1) specify the criteria for selecting projects to be included in the program;

(2) define program funding categories, including categories for safety, maintenance, and mobility; and

(3) define each phase of a major transportation project, including the planning, programming, implementation, and construction phases.

(c) Requires TxDOT to publish the entire unified transportation program and summary documents highlighting project benchmarks, priorities, and forecasts in appropriate media and on TxDOT's Internet website in a format that is easily understandable by the public.

(d) Requires TTC, in developing the rules required by this section, to collaborate with local transportation entities.

Sec. 201.992. ANNUAL UPDATE TO UNIFIED TRANSPORTATION PROGRAM.

(a) Requires TxDOT to annually update the unified transportation program.

(b) Requires that the annual update include:

(1) the annual funding forecast required by Section 201.993;

(2) the list of major transportation projects required by Section 201.994(b); and

(3) the category to which the project has been assigned and the priority of the project in the category under Section 201.995.

(c) Requires TxDOT to collaborate with local transportation entities to develop the annual update to the unified transportation program.

Sec. 201.993. ANNUAL FUNDING AND CASH FLOW FORECASTS. (a) Requires TxDOT to:

(1) develop and publish a forecast of all funds TxDOT expects to receive, including funds from this state and the federal government; and

(2) use that forecast to guide planning for the unified transportation program.

(b) Requires TxDOT to collaborate with local transportation entities to develop scenarios for the forecast required by Subsection (a) based on mutually acceptable funding assumptions.

(c) Requires TxDOT, not later than September 1 of each year, to prepare and publish a cash flow forecast for a period of 20 years.

Sec. 201.994. MAJOR TRANSPORTATION PROJECTS. (a) Requires TTC by rule to:

(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 unified transportation program.

(b) Requires TxDOT annually to update the list of projects that are designated as major transportation projects.

(c) Requires TTC, in adopting rules required by this section, to collaborate with local transportation entities.

Sec. 201.995. PRIORITY PROJECTS IN PROGRAM CATEGORIES. (a) Requires TTC by rule to:

(1) establish categories in the unified transportation program;

(2) assign each project identified in the program to a category; and

(3) designate the priority ranking of each project within each category.

(b) Requires TxDOT to collaborate with local transportation entities when assigning each project included in the unified transportation program to a category established under Subsection (a).

(c) Requires that the highest priority projects within an applicable category of the unified transportation program be projects designated as major transportation projects.

Sec. 201.996. FUNDING ALLOCATION. (a) Requires TTC by rule, for each funding category established under Section 201.991(b)(2), to specify the formulas for allocating funds to districts and metropolitan planning organizations for:

- (1) preventive maintenance and rehabilitation of the state highway system in all districts;
- (2) mobility and added capacity projects in metropolitan and urban areas;
- (3) mobility and added capacity projects on major state highways that provide statewide connectivity between urban areas and highway system corridors;
- (4) congestion mitigation and air quality improvement projects in nonattainment areas;
- (5) metropolitan mobility and added capacity projects within the boundaries of designated metropolitan planning areas of metropolitan planning organizations located in a transportation management area;
- (6) transportation enhancements project funding; and
- (7) projects eligible for federal or state funding, as determined by the applicable district engineer.

(b) Requires TTC, subject to applicable state and federal law, to determine the allocation of funds in all of the other categories established under Section 201.991(b)(2), including a category for projects of specific importance to the state, including projects that:

- (1) promote economic opportunity;
- (2) increase efficiency on military deployment routes or that retain military assets; and
- (3) maintain the ability of appropriate entities to respond to emergencies.

(c) Requires TTC to update the formulas established under this section at least every four years.

Sec. 201.997. FUND DISTRIBUTION. (a) Requires TxDOT to allocate funds to TxDOT districts based on the formulas adopted under Section 201.996.

(b) Prohibits TxDOT, in distributing funds to TxDOT districts, from exceeding the cash flow forecast prepared and published under Section 201.993(c).

Sec. 201.998. WORK PROGRAM. (a) Requires each TxDOT district to develop a consistently formatted work program based on the unified transportation program covering a period of four years that contains all projects that the district proposes to implement during that period.

(b) Requires that the work program contain:

(1) information regarding the progress of projects designated as major transportation projects, according to project implementation benchmarks and timelines established under Section 201.994; and

(2) a summary of the progress on other district projects.

(c) Requires TxDOT to use the work program to:

(1) monitor the performance of the district; and

(2) evaluate the performance of district employees.

(d) Requires TxDOT to publish the work program in appropriate media and on TxDOT's Internet website.

SECTION 26. Amends Section 202.021, Transportation Code, by amending Subsection (e) and adding Subsection (e-1), as follows:

(e) Authorizes TTC to 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) Requires that a grant transferring real property under Subsection (e)(2) contain a reservation providing that if property described by that subsection ceases to be used for public road purposes, that real property is required to immediately and automatically revert to this state.

SECTION 27. Amends Subchapter A, Chapter 222, Transportation Code, by adding Sections 222.005 and 222.006, as follows:

Sec. 222.005. AUTHORIZATION TO PROVIDE ASSISTANCE TO EXPEDITE ENVIRONMENTAL REVIEW. (a) Authorizes TxDOT, a county, a regional tollway authority operating under Chapter 366 (Regional Tollway Authorities), or a regional mobility authority operating under Chapter 370 (Regional Mobility Authorities) to 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 the applicable entity's transportation projects, including those listed in the applicable metropolitan planning organization's long-range transportation plan under 23 U.S.C. Section 134.

(b) Provides that, 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) Authorizes TxDOT to enter into a separate agreement for a transportation project that TxDOT determines has regional importance.

(d) Provides that 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) Requires an entity entering into an agreement under this section to make the agreement available on the entity's Internet website.

Sec. 222.006. ENVIRONMENTAL REVIEW CERTIFICATION PROCESS. Requires TxDOT by rule to establish a process to certify TxDOT district environmental specialists to work on all documents related to state and federal environmental review processes. Requires that the certification process:

- (1) be available to TxDOT employees; and
- (2) require continuing education for recertification.

SECTION 28. Amends Section 222.106(i), Transportation Code, as follows:

(i) Requires that all or the portion specified by the municipality of the money deposited to a tax increment account be used to fund the transportation project for which the zone was designated, as well as aesthetic improvements within the zone. Authorizes any remaining money deposited to the tax increment account to be used for other purposes as determined by the municipality. Authorizes a municipality to issue bonds to pay all or part of the cost of the transportation project and to pledge and assign all or a specified amount of money in the tax increment account to secure repayment of those bonds. Deletes existing text requiring that money deposited to a tax increment account be used to fund projects authorized under Section 222.104 (Pass-Through Tolls), including the repayment of amounts owed under an agreement entered into under that section.

SECTION 29. Amends Section 222.107, Transportation Code, by amending Subsections (f) and (h) and adding Subsections (h-1) and (i-1), as follows:

(f) Requires that the order or resolution designating an area as a transportation reinvestment zone:

- (1) Makes no changes to this subdivision;
- (2) provide that the zone takes effect immediately on adoption of the order or resolution and that the base year shall be the year of passage of the order or resolution or some year in the future;
- (3) Makes no changes to this subdivision;
- (4) designate the base year for purposes of establishing the tax increment base of the county; and
- (5) establish an ad valorem tax increment account for the zone.

(h) Authorizes the commissioners court to:

- (1) from taxes collected on property in a zone, pay into a tax increment account for the zone an amount equal to the tax increment produced by the county less any amounts allocated under previous agreements, including agreements under Section 381.004 (Community and Economic Development Programs in Certain Counties), Local Government Code, or Chapter 312 (Property Redevelopment and Tax Abatement Act), Tax Code;
- (2) by order or resolution 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 imposed by the county on the owner's property;

(3) by order or resolution elect to abate all or a portion of the ad valorem taxes imposed by the county on all real property in a zone; or

(4) grant other relief from ad valorem taxes on property in a zone.

Makes a nonsubstantive change.

(h-1) Creates this subsection from existing text. Requires that all abatements or other relief granted by the commissioners court in a transportation reinvestment zone be equal in rate. Prohibits the total amount of the taxes abated or the total amount of relief granted under this section, in any ad valorem tax year, from exceeding the amount calculated under Subsection (a)(1) (relating to the amount of a county's tax increment for a year) for that year, less any amounts allocated under previous agreements, including agreements under Section 381.004, Local Government Code, or Chapter 312, Tax Code. Deletes existing text authorizing the commissioners court by order or resolution, in the alternative, to elect to abate a portion of the ad valorem taxes imposed by the county on all real property located in the zone.

(i-1) Authorizes a county, in the event it collects a tax increment, to issue bonds to pay all or part of the cost of a transportation project and to pledge and assign all or a specified amount of money in the tax increment account to secure those bonds.

SECTION 30. Amends Section 223.002, Transportation Code, as follows:

Sec. 223.002. New heading: NOTICE OF BIDS. Deletes existing Subsection (a) designation. Requires TxDOT to give notice regarding the time and place, rather than publish notice of the time and place, at which bids on a contract will be opened and the contract awarded. Requires TTC by rule to determine the most effective method for providing the notice required by this section.

Deletes existing Subsection (b) requiring that the notice 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 TxDOT may designate.

Deletes existing Subsection (c) authorizing the notice, instead of the notice required by Subsection (b), if TxDOT estimates that the contract involves an amount less than \$300,000, to be published in two successive issues of a newspaper published in the county in which the improvement is to be made.

Deletes existing Subsection (d) requiring that the notice, if a newspaper is not published in the county in which the improvement is to be made, be published in a newspaper in the county nearest the county seat of the county in which the improvement is to be made, and in which a newspaper is published.

SECTION 31. Amends Section 223.201, Transportation Code, by amending Subsections (f) and (i) and adding Subsections (j), (k), (l), and (m), as follows:

(f) Authorizes TxDOT to enter into a comprehensive development agreement only for all or part of:

(1) the State Highway 99 (Grand Parkway) project;

(2) the Interstate Highway 35E managed lanes project in Dallas and Denton Counties from Interstate Highway 635 to U.S. Highway 380;

(3) the North Tarrant Express project in Tarrant and Dallas Counties, including:

(A) on State Highway 183 from State Highway 121 to State Highway 161 (Segment 2E);

(B) on Interstate Highway 35W from Interstate Highway 30 to State Highway 114 (Segments 3A, 3B, and 3C); and

(C) on Interstate Highway 820 from State Highway 183 North to south of Randol Mill Road (Segment 4);

(4) the State Highway 183 managed lanes project in Dallas County from State Highway 161 to Interstate Highway 35E;

(5) the State Highway 249 project in Harris and Montgomery Counties from Spring Cypress Road to Farm-to-Market Road 1774;

(6) the State Highway 288 project in Brazoria County and Harris County; and

(7) the U.S. Highway 290 Hempstead managed lanes project in Harris County from Interstate Highway 610 to State Highway 99.

Deletes existing text providing that except as provided by Subsections (h) (relating to comprehensive developments to which Subsection (f) does not apply) and (i), the authority to enter into comprehensive development agreements provided by this section expires on August 31, 2009.

(i) Provides that the authority to enter into a comprehensive development agreement for a project described by Subsection (f), other than the State Highway 99 (Grand Parkway) project expires August 31, 2015. Deletes existing text providing that 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.

(j) Requires TxDOT, before TxDOT may enter into a comprehensive development agreement under Subsection (f), to:

(1) obtain, not later than August 31, 2013, the appropriate environmental clearance for any project other than the State Highway 99 (Grand Parkway) project; and

(2) present to TTC a full financial plan for the project, including costing methodology and cost proposals.

(k) Requires TxDOT, not later than December 1, 2012, to present a report to TTC on the status of a project described by Subsection (f). Requires that the report include:

(1) the status of the project's environmental clearance;

(2) an explanation of any project delays; and

(3) if the procurement is not completed, the anticipated date for the completion of the procurement.

(l) Defines, in this section, "environmental clearance."

(m) Prohibits TxDOT from developing a project under this section as a project under Chapter 227 (Trans-Texas Corridor).

SECTION 32. Amends Subchapter E, Chapter 223, Transportation Code, by adding Sections 223.2011 and 223.2012, as follows:

Sec. 223.2011. LIMITED AUTHORITY FOR CERTAIN PROJECTS USING COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) Authorizes TxDOT or an authority under Section 370.003 (Definitions), notwithstanding Sections 223.201(f) and 370.305(c), to enter into a comprehensive development agreement relating to improvements to, or construction of:

(1) the Loop 1 (MoPac Improvement) project from Farm-to-Market Road 734 to Cesar Chavez Street;

(2) the U.S. 183 (Bergstrom Expressway) project from Springdale Road to Patton Avenue; or

(3) a project consisting of the construction of:

(A) the Outer Parkway Project from U.S. Highway 77/83 to Farm-to-Market Road 1847; and

(B) the South Padre Island Second Access Causeway Project from State Highway 100 to Park Road 100.

(b) Requires TxDOT or the authority, as applicable, before TxDOT or an authority may enter into a comprehensive development agreement under this section, to meet the requirements under Section 223.201(j).

(c) Requires TxDOT or the authority, as applicable, not later than December 1, 2012, to present a report to TTC on the status of a project described by Subsection

(a). Requires that the report include:

(1) the status of the project's environmental clearance;

(2) an explanation of any project delays; and

(3) if the procurement is not completed, the anticipated date for the completion of the procurement.

(d) Prohibits TxDOT from providing any financial assistance to an authority to pay for the costs of procuring an agreement under this section.

(e) Defines, in this section, "environmental clearance."

(f) Provides that the authority to enter into a comprehensive development agreement under this section expires August 31, 2015.

Sec. 223.2012. NORTH TARRANT EXPRESS PROJECT PROVISIONS. (a) Provides that, in this section, the North Tarrant Express project is the project described by Section 223.201(f)(3) entered into on June 23, 2009.

(b) Authorizes the comprehensive development agreement for the North Tarrant Express project to provide for negotiating and entering into facility agreements for future phases or segments of the project at the times that TxDOT considers advantageous to TxDOT.

(c) Provides that TxDOT is not required to use any further competitive procurement process to enter into one or more related facility agreements with the developer or an entity controlled by, to be controlled by, or to be under common control with the developer under the comprehensive development agreement for the North Tarrant Express project.

(d) Requires that a facility agreement for the North Tarrant Express project terminate on or before June 22, 2061. Prohibits a facility agreement from being extended or renewed beyond that date.

(e) Authorizes TxDOT to include or negotiate any matter in a comprehensive development agreement for the North Tarrant Express project that TxDOT considers advantageous to TxDOT.

(f) Authorizes the comprehensive development agreement for the North Tarrant Express project to provide the developer or an entity controlled by, to be controlled by, or to be under common control with the developer with a right of first negotiation under which the developer may elect to negotiate with TxDOT and enter into one or more related facility agreements for future phases or segments of the project.

SECTION 33. Amends Section 223.203, Transportation Code, by adding Subsections (f-2), (l-1), (l-2), and (p) and amending Subsection (g), as follows:

(f-2) Requires a private entity responding to a request for detailed proposals issued under Subsection (f) (relating to requiring TxDOT to issue a request for detailed proposals) to identify:

(1) companies that will fill key project roles, including project management, lead design firm, quality control management, and quality assurance management; and

(2) entities that will serve as key task leaders for geotechnical, hydraulics and hydrology, structural, environmental, utility, and right-of-way issues.

(g) Authorizes TxDOT, in issuing a request for detailed proposals under Subsection (f), to solicit input from entities qualified under Subsection (e) (relating to qualifying entities for comprehensive development agreements) or any other person. Requires that a technical solution presented with a proposal be fully responsive to, and have demonstrated resources to be able to fulfill, all technical requirements for the project, including specified quality assurance and quality control program requirements, safety program requirements, and environmental program requirements. Provides that a proposal that includes a technical solution that does not meet those requirements is ineligible for further consideration.

(l-1) Prohibits a private entity selected for a comprehensive development agreement from making changes to the companies or entities identified under Subsection (f-2) unless the original company or entity:

(1) is no longer in business, is unable to fulfill its legal, financial, or business obligations, or can no longer meet the terms of the teaming agreement with the private entity;

(2) voluntarily removes itself from the team;

(3) fails to provide a sufficient number of qualified personnel to fulfill the duties identified during the proposal stage; or

(4) fails to negotiate in good faith in a timely manner in accordance with provisions established in the teaming agreement proposed for the project.

(l-2) Provides that if the private entity makes team changes in violation of Subsection (l-1), any cost savings resulting from the change accrue to the state and not to the private entity.

(p) Requires that all teaming agreements and subconsultant agreements be executed and provided to TxDOT before the execution of the comprehensive development agreement.

SECTION 34. Amends Chapter 223, Transportation Code, by adding Subchapter F, as follows:

SUBCHAPTER F. DESIGN-BUILD CONTRACTS

Sec. 223.241. DEFINITIONS. Defines, in this subchapter, "design-build contractor" and "design-build method."

Sec. 223.242. SCOPE OF AND LIMITATIONS ON CONTRACTS. (a) Authorizes TxDOT, notwithstanding the requirements of Subchapter A (Competitive Bids) and Chapter 2254 (Professional and Consulting Services), Government Code, to use the design-build method for the design, construction, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a highway project.

(b) Prohibits a design-build contract under this subchapter from granting to a private entity a leasehold interest in the highway project or the right to operate or retain revenue from the operation of a toll project.

(c) Requires TxDOT and the design-build contractor, in using the design-build method and in entering into a contract for the services of a design-build contractor, to follow the procedures and requirements of this subchapter.

(d) Authorizes TxDOT to enter into a design-build contract for a highway project with a construction cost estimate of \$50 million or more to TxDOT.

(d-1) Prohibits TxDOT from entering into more than three contracts under this section in each fiscal year. Provides that this subsection expires August 31, 2015.

(e) Prohibits money disbursed by TxDOT to pay engineering costs for the design of a project incurred by the design-build contractor under a design-build contract from being included in the amounts under Section 223.041 (Engineering and Design Contracts):

(1) required to be spent in a state fiscal biennium for engineering-related services; or

(2) appropriated in Strategy A.1.1, Plan/Design/Manage or Strategy A.1.2, Contracted Planning and Design of the General Appropriations Act.

Sec. 223.243. USE OF ENGINEER OR ENGINEERING FIRM. (a) Requires TxDOT, to act as TxDOT's representative, independent of a design-build contractor, for the procurement process and for the duration of the work on a highway project, to select or designate:

(1) an engineer;

(2) a qualified firm, selected in accordance with Section 2254.004 (Contract for Professional Services of Architect, Engineer, or Surveyor), Government Code, who is independent of the design-build contractor; or

(3) a general engineering consultant that was previously selected by TxDOT and is selected or designated in accordance with Section 2254.004, Government Code.

(b) Provides that the selected or designated engineer or firm has full responsibility for complying with Chapter 1001 (Engineers), Occupations Code.

Sec. 223.244. OTHER PROFESSIONAL SERVICES. (a) Requires TxDOT to provide or contract for, independently of the design-build contractor, the following services as necessary for the acceptance of the highway project by TxDOT:

- (1) inspection services;
- (2) construction materials engineering and testing; and
- (3) verification testing services.

(b) Requires TxDOT to ensure that the engineering services contracted for under this section are selected based on demonstrated competence and qualifications.

(c) Provides that this section does not preclude a design-build contractor from providing construction quality assurance and quality control under a design-build contract.

Sec. 223.245. REQUEST FOR QUALIFICATIONS. (a) Requires TxDOT to prepare and issue a request for qualifications for any highway project to be delivered through the design-build method. Requires that a request for qualifications include:

- (1) information regarding the proposed project's location, scope, and limits;
- (2) information regarding funding that may be available for the project;
- (3) criteria that will be used to evaluate the qualifications statements, which must include a proposer's qualifications, experience, technical competence, and ability to develop the project;
- (4) the relative weight to be given to the criteria; and
- (5) the deadline by which qualifications statements must be received by TxDOT.

(b) Requires TxDOT to publish notice advertising the issuance of a request for qualifications in the Texas Register and on TxDOT's Internet website.

(c) Requires TxDOT to evaluate each qualifications statement received in response to a request for qualifications based on the criteria identified in the request. Authorizes TxDOT to interview responding proposers. Requires TxDOT to qualify or short-list proposers to submit proposals based on TxDOT's evaluation of qualifications statements and interviews, if any.

(d) Requires TxDOT to qualify or short-list at least two private entities to submit proposals under Section 223.246, but prohibits qualifying or short-listing more private entities than the number of private entities designated on the request for qualifications.

(e) Authorizes TxDOT to withdraw a request for qualifications or request for proposals at any time.

Sec. 223.246. REQUEST FOR PROPOSALS. (a) Requires TxDOT to issue a request for proposals to proposers short-listed under Section 223.245. Requires that a request for proposals include:

- (1) information on the overall project goals;
- (2) publicly available cost estimates for the design-build portion of the project;
- (3) materials specifications;

- (4) special material requirements;
- (5) a schematic design approximately 30 percent complete;
- (6) known utilities, provided that TxDOT is not required to undertake an effort to locate utilities;
- (7) quality assurance and quality control requirements;
- (8) the location of relevant structures;
- (9) notice of any rules or goals adopted by TxDOT relating to awarding contracts to disadvantaged business enterprises or small business enterprises;
- (10) available geotechnical or other information related to the project;
- (11) the status of any environmental review of the project;
- (12) detailed instructions for preparing the technical proposal required under Subsection (d), including a description of the form and level of completeness of drawings expected;
- (13) the relative weighting of the technical and cost proposals required under Subsection (d) and the formula by which the proposals will be evaluated and ranked; and
- (14) the criteria to be used in evaluating the technical proposals, and the relative weighting of those criteria.

(b) Requires that the formula used to evaluate proposals under Subsection (a)(13) allocate at least 70 percent of the weighting to the cost proposal.

(c) Requires that a request for proposals also include a general form of the design-build contract that TxDOT proposes and that may be modified as a result of negotiations prior to contract execution.

(d) Requires that each response to a request for proposals include a sealed technical proposal and a separate sealed cost proposal submitted to TxDOT by the date specified in the request for proposals.

(e) Requires that the technical proposal address:

- (1) the proposer's qualifications and demonstrated technical competence, unless that information was submitted to TxDOT and evaluated by TxDOT under Section 223.245;
- (2) the feasibility of developing the project as proposed, including identification of anticipated problems;
- (3) the proposed solutions to anticipated problems;
- (4) the ability of the proposer to meet schedules;
- (5) the conceptual engineering design proposed; and
- (6) any other information requested by TxDOT.

(f) Authorizes TxDOT to provide for the submission of alternative technical concepts by a proposer. Requires TxDOT, if TxDOT provides for the submission

of alternative technical concepts, to prescribe a process for notifying a proposer whether the proposer's alternative technical concepts are approved for inclusion in a technical proposal.

(g) Requires that the cost proposal include:

- (1) the cost of delivering the project; and
- (2) the estimated number of days required to complete the project.

(h) Requires that a response to a request for proposals be due not later than the 180th day after the final request for proposals is issued by TxDOT. Provides that this subsection does not preclude the release by TxDOT of a draft request for proposals for purposes of receiving input from short-listed proposers.

(i) Requires TxDOT to first open, evaluate, and score each responsive technical proposal submitted on the basis of the criteria described in the request for proposals and assign points on the basis of the weighting specified in the request for proposals. Authorizes TxDOT to reject as nonresponsive any proposer that makes a significant change to the composition of its design-build team as initially submitted that was not approved by TxDOT as provided in the request for proposals. Requires TxDOT to subsequently open, evaluate, and score the cost proposals from proposers that submitted a responsive technical proposal and assign points on the basis of the weighting specified in the request for proposals. Requires TxDOT to rank the proposers in accordance with the formula provided in the request for proposals.

(j) Requires that if TxDOT receives only one response to a request for proposals, an independent bid evaluation by TxDOT confirm and validate that the project procurement delivered value for the public investment, and no anticompetitive practices were involved in the procurement.

Sec. 223.247. NEGOTIATION. (a) Requires TxDOT, after ranking the proposers under Section 223.246(i), to first attempt to negotiate a contract with the highest-ranked proposer. Authorizes TxDOT to include in the negotiations alternative technical concepts proposed by other proposers, subject to Section 223.249.

(b) Requires TxDOT, if TxDOT is unable to negotiate a satisfactory contract with the highest-ranked proposer, to, formally and in writing, end all negotiations with that proposer and proceed to negotiate with the next proposer in the order of the selection ranking until a contract is reached or negotiations with all ranked proposers end.

Sec. 223.248. ASSUMPTION OF RISKS AND COSTS. (a) Requires TxDOT, except as provided by Subsection (b), to assume:

- (1) all risks and costs associated with changes and modifications to the scope of the project requested by TxDOT; unknown or differing conditions at the site of the project; applicable environmental clearance and other regulatory permitting necessary for the project; and natural disasters and other force majeure events; and
- (2) all costs associated with property acquisition, other than costs associated with acquiring a temporary easement or work area used for staging or constructing the project.

(b) Authorizes a design-build contractor to assume some or all of the risks or costs described by Subsection (a) if the terms of the assumption are reflected in the final request for proposals, including all supplements to the request.

Sec. 223.249. STIPEND AMOUNT FOR UNSUCCESSFUL PROPOSERS.

(a) Requires TxDOT to pay an unsuccessful proposer that submits a responsive proposal a stipend for the work product contained in the proposal that TxDOT determines can be used by TxDOT in the performance of TxDOT's functions. Requires that the stipend be a minimum of twenty-five hundredths of one percent of the contract amount and be specified in the initial request for proposals, but prohibits the stipend from exceeding the value of the work product contained in the proposal that TxDOT determines can be used by TxDOT in the performance of TxDOT's functions. Requires TxDOT, if TxDOT determines that the value of the work product is less than the stipend amount, to provide the proposer with a detailed explanation of the valuation, including the methodology and assumptions used by TxDOT in determining the value of the work product. Authorizes TxDOT, after payment of the stipend, to make use of any work product contained in the unsuccessful proposal, including the techniques, methods, processes, and information contained in the proposal. Provides that the use by TxDOT of any design element contained in an unsuccessful proposal is at the sole risk and discretion of TxDOT and does not confer liability on the recipient of the stipend under this subsection.

(b) Requires TxDOT, in a request for proposals, to provide for the payment of a partial stipend in the event that a procurement is terminated before the execution of a design-build contract.

Sec. 223.250. PERFORMANCE OR PAYMENT BOND. (a) Requires TxDOT to require a design-build contractor to provide:

- (1) a performance and payment bond;
- (2) an alternative form of security; or
- (3) a combination of the forms of security described by Subdivisions (1) and (2).

(b) Requires that a performance and payment bond, alternative form of security, or combination of the forms be in an amount equal to the cost of constructing or maintaining the project, except as provided by Subsection (c).

(c) Requires TxDOT, if TxDOT determines that it is impracticable for a private entity to provide security in the amount described by Subsection (b), to set the amount of the security.

(d) Provides that a performance and payment bond is not required for the portion of a design-build contract under this section that includes design services only.

(e) Authorizes TxDOT to require one or more of the following alternative forms of security:

- (1) a cashier's check drawn on a financial entity specified by TxDOT;
- (2) a United States bond or note;
- (3) an irrevocable bank letter of credit provided by a bank meeting the requirements specified in the request for proposals; or
- (4) any other form of security determined suitable by TxDOT.

(f) Provides that Section 223.006 (Contractor's Bond) of this code and Chapter 2253 (Public Work Performance and Payment Bonds), Government Code, do not apply to a bond or alternative form of security required under this section.

SECTION 35. Amends Section 228.012(b), Transportation Code, as follows:

(b) Requires TxDOT to 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 for projects approved by TxDOT. Requires that, at the time the project is approved by TxDOT, money be allocated and distributed to projects authorized by Section 228.0055 (Use of Contract Payments and Other Revenue) or Section 228.006 (Use of Surplus Revenue), as applicable, except as provided by Subsection (c).

SECTION 36. Amends Subchapter A, Chapter 228, Transportation Code, by adding Section 228.013, as follows:

Sec. 228.013. DETERMINATION OF FINANCIAL TERMS FOR CERTAIN TOLL PROJECTS. (a) Provides that this section applies only to a proposed TxDOT toll project in which a private entity has a financial interest in the project's performance and for which:

- (1) funds dedicated to or controlled by a region will be used;
- (2) right-of-way is provided by a municipality or county; or
- (3) revenues dedicated to or controlled by a municipality or county will be used.

(b) Requires that the distribution of a project's financial risk, the method of financing for a project, and the tolling structure and methodology be determined by a committee consisting of the following members:

- (1) a representative of TxDOT;
- (2) a representative of any local toll project entity, as defined by Section 371.001 (Definitions), for the area in which the project is located;
- (3) a representative of the applicable metropolitan planning organization; and
- (4) a representative of each municipality or county that has provided revenue or right-of-way as described by Subsection (a).

SECTION 37. Amends Section 370.305, Transportation Code, as follows:

Sec. 370.305. COMPREHENSIVE DEVELOPMENT AGREEMENTS.

(a) Redesignates existing Subsection (b) as Subsection (a). Provides that a comprehensive development agreement is an agreement with a private entity that, at a minimum, provides for the design and construction of a transportation project, that may provide for the financing, acquisition, maintenance, or operation of a transportation project, and that entitles the private entity to a leasehold interest in the transportation project, or the right to operate or retain revenue from the operation of the transportation project. Deletes existing Subsection (a), authorizing an authority to use a comprehensive development agreement with a private entity to construct, maintain, repair, operate, extend, or expand a transportation project.

(b) Redesignates existing Subsection (c) as Subsection (b). Makes no further changes.

(c) Redesignates existing Subsection (d) as Subsection (d). Provides that, except as provided by this chapter, an authority's authority to enter into a comprehensive development agreement expires on August 31, 2011, rather than provides that except as provided by Subsections (e) and (f), the authority to enter into comprehensive development agreements under this section expires on August 31, 2009.

Deletes existing text of Subsection (e), providing that Subsection (d) does not apply to a comprehensive development agreement that does not grant a private entity a right to finance a toll project or a comprehensive development agreement in connection with a project that includes one or more managed lane facilities to be added to an existing controlled-access highway, 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 for which the department has issued a request for qualifications before the effective date of this subsection.

Deletes existing Subsection (f) providing that the authority to enter into a comprehensive development agreement for a project exempted from Subsection (d) or Section 223.210(b) expires August 31, 2011.

SECTION 38. Amends Chapter 370, Transportation Code, by adding Subchapter K, as follows:

SUBCHAPTER K. DESIGN-BUILD CONTRACTS

Sec. 370.401. SCOPE OF AND LIMITATIONS ON CONTRACTS. (a) Authorizes an authority to use the design-build method for the design, construction, financing, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a transportation project, notwithstanding the requirements of Chapter 2254, Government Code.

(b) Prohibits a design-build contract under this subchapter from granting to a private entity a leasehold interest in the transportation project, or the right to operate or retain revenue from the operation of the transportation project.

(c) Requires the authority and the design-build contractor, in using the design-build method and in entering into a contract for the services of a design-build contractor, to follow the procedures and requirements of this subchapter.

(d) Authorizes an authority to enter into not more than two design-build contracts for transportation projects in any fiscal year.

Sec. 370.402. DEFINITIONS. Defines, in this subchapter, "design-build contractor" and "design-build method."

Sec. 370.403. USE OF ENGINEER OR ENGINEERING FIRM. (a) Requires an authority, to act as an authority's representative, independent of a design-build contractor, for the procurement process and for the duration of the work on a transportation project, to select or designate an engineer, a qualified firm, selected in accordance with Section 2254.004, Government Code, that is independent of the design-build contractor, or a general engineering consultant that was previously selected by an authority and is selected or designated in accordance with Section 2254.004, Government Code.

(b) Provides that the selected or designated engineer or firm has full responsibility for complying with Chapter 1001, Occupations Code.

Sec. 370.404. OTHER PROFESSIONAL SERVICES. (a) Requires an authority to provide or contract for, independently of the design-build firm, the following services as necessary for the acceptance of the transportation project by the authority:

- (1) inspection services;
- (2) construction materials engineering and testing; and
- (3) verification testing services.

(b) Requires an authority to ensure that the engineering services contracted for under this section are selected based on demonstrated competence and qualifications.

(c) Provides that this section does not preclude the design-build contractor from providing construction quality assurance and quality control under a design-build contract.

Sec. 370.405. REQUEST FOR QUALIFICATIONS. (a) Requires an authority, for any transportation project to be delivered through the design-build method, to prepare and issue a request for qualifications. Requires that a request for qualifications include:

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

(2) information regarding funding that may be available for the project and a description of the financing to be requested from the design-build contractor, as applicable;

(3) criteria that will be used to evaluate the proposals, which must include a proposer's qualifications, experience, technical competence, and ability to develop the project;

(4) the relative weight to be given to the criteria; and

(5) the deadline by which proposals must be received by the authority.

(b) Requires an authority to publish notice advertising the issuance of a request for qualifications in the Texas Register and on an Internet website maintained by the authority.

(c) Requires an authority to evaluate each qualifications statement received in response to a request for qualifications based on the criteria identified in the request. Authorizes an authority to interview responding proposers. Requires an authority, based on the authority's evaluation of qualifications statements and interviews, if any, to qualify or short-list proposers to submit detailed proposals.

(d) Requires an authority to qualify or short-list at least two, but no more than five, firms to submit detailed proposals under Section 370.406. Requires an authority to terminate the procurement if the authority receives only one responsive proposal to a request for qualifications.

(e) Authorizes an authority to withdraw a request for qualifications or request for detailed proposals at any time.

Sec. 370.406. REQUEST FOR DETAILED PROPOSALS. (a) Requires an authority to issue a request for detailed proposals to proposers qualified or short-listed under Section 370.405. Requires that a request for detailed proposals include information on the overall project goals, the authority's cost estimates for the design-build portion of the work, materials specifications, special material requirements, a schematic design approximately 30 percent complete, known utilities, provided that an authority is not required to undertake an effort to locate utilities, quality assurance and quality control requirements, the location of relevant structures, notice of any rules or goals adopted by the authority pursuant to Section 370.183 relating to awarding contracts to disadvantaged businesses, available geotechnical or other information related to the project, the status of any environmental review of the project, detailed instructions for preparing the technical proposal required under Subsection (c), including a description of the form and level of completeness of drawings expected, the relative weighting of the technical and cost proposals required under Subsection (c) and the formula by which the proposals will be evaluated and ranked, provided that the formula shall allocate at least 70 percent of the

weighting to the cost proposal, and the criteria and weighting for each element of the technical proposal.

(b) Requires that a request for detailed proposals also include a general form of the design-build contract that the authority proposes if the terms of the contract may be modified as a result of negotiations prior to contract execution.

(c) Requires that each response to a request for detailed proposals include a sealed technical proposal and a separate sealed cost proposal.

(d) Requires that the technical proposal address:

(1) the proposer's qualifications and demonstrated technical competence, provided that the proposer shall not be requested to resubmit any information that was submitted and evaluated pursuant to Section 370.405(a)(3);

(2) the feasibility of developing the project as proposed, including identification of anticipated problems;

(3) the proposed solutions to anticipated problems;

(4) the ability of the proposer to meet schedules;

(5) the conceptual engineering design proposed; and

(6) any other information requested by the authority.

(e) Authorizes an authority to provide for the submission of alternative technical concepts by a proposer. Requires an authority, if the authority provides for the submission of alternative technical concepts, to prescribe a process for notifying a proposer whether the proposer's alternative technical concepts are approved for inclusion in a technical proposal.

(f) Requires that the cost proposal include:

(1) the cost of delivering the project;

(2) the estimated number of days required to complete the project; and

(3) any terms for financing for the project that the proposer plans to provide.

(g) Requires that a response to a request for detailed proposals be due not later than the 180th day after the final request for detailed proposals is issued by the authority. Provides that this subsection does not preclude the release by the authority of a draft request for detailed proposals for purposes of receiving input from short-listed proposers.

(h) Requires an authority to first open, evaluate, and score each responsive technical proposal submitted on the basis of the criteria described in the request for detailed proposals and assign points on the basis of the weighting specified in the request for detailed proposals. Authorizes the authority to reject as nonresponsive any proposer that makes a significant change to the composition of its design-build team as initially submitted that was not approved by the authority as provided in the request for detailed proposals. Requires the authority to subsequently open, evaluate, and score the cost proposals from proposers that submitted a responsive technical proposal and assign points on the basis of the weighting specified in the request for detailed proposals. Requires the authority

to rank the proposers in accordance with the formula provided in the request for detailed proposals.

Sec. 370.407. NEGOTIATION. (a) Requires an authority, after ranking the proposers under Section 370.406(h), to first attempt to negotiate a contract with the highest-ranked proposer. Authorizes an authority, if an authority has committed to paying a stipend to unsuccessful proposers in accordance with Section 370.409, to include in the negotiations alternative technical concepts proposed by other proposers.

(b) Requires an authority, if the authority is unable to negotiate a satisfactory contract with the highest-ranked proposer, to, formally and in writing, end all negotiations with that proposer and proceed to negotiate with the next proposer in the order of the selection ranking until a contract is reached or negotiations with all ranked proposers end.

Sec. 370.408. ASSUMPTION OF RISKS. (a) Requires the authority, unless otherwise provided in the final request for detailed proposals, including all addenda and supplements to that request, to assume:

(1) all risks and costs associated with scope changes and modifications, as requested by the authority; unknown or differing site conditions; environmental clearance and other regulatory permitting for the project; and natural disasters and other force majeure events; and

(2) all costs associated with property acquisition, excluding costs associated with acquiring a temporary easement or work area associated with staging or construction for the project.

(b) Provides that nothing herein shall prevent the parties from agreeing that the design-build contractor should assume some or all of the risks or costs set forth in Subsection (a) provided that such agreement is reflected in the final request for detailed proposals, including all addenda and supplements to the agreement.

Sec. 370.409. STIPEND AMOUNT FOR UNSUCCESSFUL PROPOSERS.

(a) Requires an authority, pursuant to the provisions of the request for detailed proposals, to pay an unsuccessful proposer that submits a responsive proposal to the request for detailed proposals a stipend for work product contained in the proposal. Requires that the stipend be specified in the initial request for detailed proposals in an amount of at least two-tenths of one percent of the contract amount, but prohibits the stipend from exceeding the value of the work product contained in the proposal to the authority. Requires the authority, in the event the authority determines that the value of the work product is less than the stipend amount, to provide the proposer with a detailed explanation of the valuation, including the methodology and assumptions used in determining value. Authorizes the authority, after payment of the stipend, to make use of any work product contained in the unsuccessful proposal, including the techniques, methods, processes, and information contained in the proposal. Provides that the use by the authority of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the authority and does not confer liability on the recipient of the stipend under this subsection.

(b) Authorizes an authority to provide in a request for detailed proposals for the payment of a partial stipend in the event a procurement is terminated prior to securing project financing and execution of a design-build contract.

Sec. 370.410. PERFORMANCE AND PAYMENT BOND. (a) Requires an authority to require a design-build contractor to provide:

(1) a performance and payment bond;

(2) an alternative form of security; or

(3) a combination of the forms of security described by Subdivisions (1) and (2).

(b) Requires that a performance and payment bond, alternative form of security, or combination of the forms of security be in an amount equal to the cost of constructing or maintaining the project, except as provided by Subsection (c).

(c) Requires the authority, if the authority determines that it is impracticable for a private entity to provide security in the amount described by Subsection (b), to set the amount of the security.

(d) Provides that a performance and payment bond is not required for the portion of a design-build contract under this section that includes design services only.

(e) Authorizes an authority to require one or more of the following alternative forms of security:

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

(2) a United States bond or note;

(3) an irrevocable bank letter of credit drawn from a federal or Texas chartered bank; or

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

(f) Provides that Chapter 2253, Government Code, does not apply to a bond or alternative form of security required under this section.

SECTION 39. Amends Section 391.004, Transportation Code, as follows:

Sec. 391.004. New heading: **DISPOSITION OF FEES.** Requires that money TTC receives under this chapter be deposited to the credit of the state highway fund, rather than the Texas highway beautification fund account. Requires TTC to use money in the state highway fund, rather than the Texas highway beautification fund account, to administer this chapter and Chapter 394 (Regulation of Outdoor Signs on Rural Roads). Deletes existing text providing that the Texas highway beautification fund account is an account in the general revenue fund.

SECTION 40. (a) Amends Subchapter A, Chapter 391, Transportation Code, by adding Section 391.006, as follows:

Sec. 391.006. **COMPLAINTS; RECORDS.** (a) Requires TTC by rule to establish procedures for accepting and resolving written complaints related to outdoor advertising under this chapter. Requires that the rules include:

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

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

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

(b) Requires TxDOT to develop and provide a simple form for filing complaints with TxDOT.

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

(d) Requires TxDOT to keep, in accordance with TxDOT's approved records retention schedule, an information file about each written complaint filed with TxDOT that TxDOT has authority to resolve. Requires TxDOT to 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 TxDOT does not take action on the complaint, an explanation of the reasons that action was not taken.

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

(b) Requires TTC to adopt rules under Section 391.006, Transportation Code, as added by this section, not later than September 1, 2012.

SECTION 41. Amends Subchapter B, Chapter 391, Transportation Code, by adding Section 391.0355, as follows:

Sec. 391.0355. ADMINISTRATIVE PENALTY. (a) Authorizes TTC, in lieu of a suit to collect a civil penalty, after notice and an opportunity for a hearing before TTC, to impose an administrative penalty against a person who violates this chapter or a rule adopted by TTC under this chapter. Provides that each day a violation continues is a separate violation.

(b) Prohibits the amount of the administrative penalty from exceeding the maximum amount of a civil penalty under Section 391.035 (Civil Penalty).

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

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

(e) Requires that an administrative penalty collected under this section be deposited to the credit of the state highway fund.

SECTION 42. Amends Section 391.063, Transportation Code, to authorize TTC to set the amount of a license fee according to a scale graduated by the number of units of outdoor advertising and the number of off-premise signs under Chapter 394 owned by a license applicant.

SECTION 43. Amends Section 391.065(b), Transportation Code, to require TTC, for the efficient management and administration of this chapter and to reduce the number of employees required to enforce this chapter, to 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 TTC for each license holder's or applicant's outdoor advertising or off-premise signs under Chapter 394.

SECTION 44. Amends Section 391.066, Transportation Code, by adding Subsection (d), to authorize TTC to 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 45. Amends Subchapter C, Chapter 391, Transportation Code, by adding Section 391.0661, as follows:

Sec. 391.0661. **APPLICABILITY OF LICENSE.** Provides that, 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 46. Amends Section 394.005, Transportation Code, to require that money TTC receives under this chapter, rather than a registration fee collected under Section 394.048 (Registration of Certain Off-Premise Signs) by TTC, be deposited to the credit of the state highway fund.

SECTION 47. (a) Amends Subchapter A, Chapter 394, Transportation Code, by adding Section 394.006, as follows:

Sec. 394.006. **COMPLAINTS; RECORDS.** (a) Requires TTC by rule to establish procedures for accepting and resolving written complaints related to signs under this chapter. Requires that the rules include:

- (1) a process to make information available describing TxDOT's procedures for complaint investigation and resolution, including making information about the procedures available on TxDOT's Internet website;
- (2) a system to prioritize complaints so that the most serious complaints receive attention before less serious complaints; and
- (3) a procedure for compiling and reporting detailed annual statistics about complaints.

(b) Requires TxDOT to develop and provide a simple form for filing complaints with TxDOT.

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

(d) Requires TxDOT to keep, pursuant to TxDOT's approved records retention schedule, an information file about each written complaint filed with TxDOT that TxDOT has authority to resolve. Requires TxDOT to 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 TxDOT does not take action on the complaint, an explanation of the reasons that action was not taken.

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

(b) Requires TTC to adopt rules under Section 394.006, Transportation Code, as added by this section, not later than September 1, 2012.

SECTION 48. Amends the heading to Subchapter B, Chapter 394, Transportation Code, to read as follows:

SUBCHAPTER B. LICENSE AND PERMIT FOR OFF-PREMISE SIGN

SECTION 49. (a) Amends Subchapter B, Chapter 394, Transportation Code, by adding Sections 394.0201, 394.0202, 394.0203, 394.0204, 394.0205, 394.0206, 394.0207, 394.027, 394.028, and 394.029, as follows:

Sec. 394.0201. ERECTING OFF-PREMISE SIGN WITHOUT LICENSE; OFFENSE. (a) Provides that 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) Provides that an offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000. Provides that each day of the proscribed conduct is a separate offense.

(c) Provides that 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) Requires TTC to issue a license to a person who:

- (1) files with TTC a completed application form within the time specified by TTC;
- (2) pays the appropriate license fee; and
- (3) files with TTC a surety bond.

(b) Authorizes a license to be issued for one year or longer.

(c) Requires TTC, at least 30 days before the date on which a person's license expires, to notify the person of the impending expiration. Requires that the notice be in writing and sent to the person's last known address according to the records of TTC.

Sec. 394.0203. LICENSE FEE. Authorizes TTC to 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) Requires that the surety bond required of an applicant for a license under Section 394.0202 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 TTC for reimbursement for removal costs of an off-premise sign that the license holder unlawfully erects or maintains.

(b) Prohibits a person from being required to provide more than \$10,000 in surety bonds.

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

(b) Requires TTC, for the efficient management and administration of this chapter and to reduce the number of employees required to enforce this chapter, to 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 TTC for each license holder's or applicant's off-premise signs or outdoor advertising under Chapter 391.

(c) Prohibits TTC from adopting a rule under this chapter that restricts competitive bidding or advertising by the holder of a license issued under this chapter other than a rule to prohibit false, misleading, or deceptive practices. Provides that the limitation provided by this section applies only to rules relating to the occupation of outdoor advertiser and does not affect TTC's power to regulate the orderly and effective display of an off-premise sign under this chapter. Prohibits a rule to prohibit false, misleading, or deceptive practices from:

(1) restricting the use of any legal medium for an advertisement; the license holder's advertisement under a trade name; or the license holder's personal appearance or voice in an advertisement, if the license holder is an individual; or

(2) relating to the size or duration of an advertisement by the license holder.

Sec. 394.0206. REVOCATION OR SUSPENSION OF LICENSE; APPEAL. (a) Authorizes TTC to 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. Authorizes TxDOT, if the suspension of the license is probated, to require the license holder to report regularly to TTC on any matter that is the basis of the probation.

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

(c) Authorizes TTC to adopt rules for the reissuance of a revoked or suspended license and to set fees for the reissuance.

(d) Authorizes TTC to 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.** Provides that, 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. **DENIAL OF PERMIT; APPEAL.** Authorizes TTC to create a process by which an applicant may appeal a denial of a permit under this subchapter.

Sec. 394.028. **FEE AMOUNTS.** Prohibits the license and permit fees required by this subchapter from exceeding an amount reasonably necessary to cover the administrative costs incurred to enforce this chapter.

Sec. 394.029. **EXCEPTIONS FOR CERTAIN NONPROFIT ORGANIZATIONS.** (a) Prohibits the combined license and permit fees under this subchapter from exceeding \$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) Provides that the nonprofit organization is not required to file a bond as provided by Section 394.0202(a)(3).

(b) Provides that 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. Provides that 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 50. Amends Section 394.050, Transportation Code, as follows:

Sec. 394.050. New heading: **VARIANCE.** Authorizes TTC or a person designated by TTC, in an appropriate case and subject to an appropriate condition or safeguard, to make a special exception to this chapter regarding a permit for an off-premise outdoor sign on a rural road. Deletes existing text requiring TTC to provide for a board of variance.

SECTION 51. Amends Sections 394.082(a) and (d), Transportation Code, as follows:

(a) Authorizes TTC, in lieu of a suit to collect a civil penalty, after notice and an opportunity for a hearing before TTC, to impose an administrative penalty against a person who violates, rather than intentionally violates, this chapter or a rule adopted by TTC under this chapter. Provides that each day a violation continues is a separate violation.

(d) Provides that judicial review of an appeal of an administrative penalty imposed under this section is under the substantial evidence rule, rather than by trial de novo.

SECTION 52. Amends Subchapter D, Chapter 472, Transportation Code, by adding Section 472.035, as follows:

Sec. 472.035. **COORDINATION WITH DEPARTMENT TO DEVELOP LONG-TERM PLANNING ASSUMPTIONS.** Requires each metropolitan planning organization to work with TxDOT 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 in the organization's long-range transportation plan.

SECTION 53. Amends Chapter 544, Transportation Code, by adding Section 544.013, as follows:

Sec. 544.013. CHANGEABLE MESSAGE SIGN SYSTEM. (a) Defines, in this section, "changeable message sign."

(b) Requires TxDOT, in cooperation with local governments, to actively manage a system of changeable message signs located on highways under the jurisdiction of TxDOT to mitigate traffic congestion by providing current information to the traveling public, including information about traffic incidents, weather conditions, road construction, and alternative routes when applicable.

SECTION 54. Amends Section 621.001, Transportation Code, by amending Subdivisions (3) and (4) and adding Subdivision (13), to redefine "department" and "director" and define "board."

SECTION 55. Amends Section 621.003(a), Transportation Code, to authorize the board of the Texas Department of Motor Vehicles (TxDMV), rather than TTC, by rule to authorize the executive director of TxDMV to enter into certain agreements with the proper authority of another state.

SECTION 56. Amends Section 621.004, Transportation Code, to provide that in each civil or criminal proceeding in which a violation of this chapter may be an issue, a certificate of the vertical clearance of a structure, including a bridge or underpass, signed by the executive director of TxDOT is admissible in evidence for all purposes.

SECTION 57. Amends Section 621.006, Transportation Code, to authorize TTC, rather than TxDOT, by rule to impose restrictions on the weight and size of vehicles to be operated on state highways on certain holidays.

SECTION 58. Amends Subchapter A, Chapter 621, Transportation Code, by adding Section 621.008, as follows:

Sec. 621.008. RULEMAKING AUTHORITY. Authorizes the board of TxDMV to adopt rules necessary to implement and enforce this chapter.

SECTION 59. Amends Section 621.102, Transportation Code, as follows:

Sec. 621.102. New heading: AUTHORITY TO SET MAXIMUM WEIGHTS.

(a) Authorizes the executive director of TxDOT, rather than TTC, to 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 executive director finds that heavier maximum weight would rapidly deteriorate or destroy the road or a bridge or culvert along the road. Makes a conforming change.

(b) Redesignates existing Subsection (c) as Subsection (b). Makes a conforming change. Deletes existing Subsection (b) requiring TTC to set a maximum weight under this section by order entered in its minutes.

(c) Redesignates existing Subsection (d) as Subsection (c). Provides that 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 by TxDOT under order of TTC.

(d) Redesignates existing Subsection (e) as Subsection (d). Makes a conforming change.

(e) Redesignates existing Subsection (f) as Subsection (e). Makes no further changes.

(f) Redesignates existing Subsection (g) as Subsection (f). Makes no further changes.

SECTION 60. Amends Sections 621.202(a) and (b), Transportation Code, as follows:

(a) Authorizes TTC by order, to comply with safety and operational requirements of federal law, to 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, conducted by TxDOT, that includes an analysis of structural capacity of bridges and pavements, traffic volume, unique climatic conditions, and width of traffic lanes support the change.

(b) Provides that an order under this section becomes effective on the designated highway or segment when appropriate signs giving notice of the limitations are erected by the TxDOT.

SECTION 61. Amends Sections 621.301(a) and (d), Transportation Code, as follows:

(a) Authorizes the commissioners court of a county to establish load limits for any county road or bridge only with the concurrence of TxDOT. Makes conforming changes

(d) Provides that a maximum weight set under this section becomes effective on a road when appropriate signs giving notice of the maximum weight are erected by TxDOT on the road under order of the commissioners court.

SECTION 62. Amends Section 621.352(a), Transportation Code, to authorize the board of TxDMV, rather than TTC, by rule to establish fees for the administration of Section 621.003 (Reciprocal Agreement with Another State for Issuance of Permits) in an amount that, when added to the other fees collected by TxDMV, does not exceed the amount sufficient to recover the actual cost to TxDMV of administering that section.

SECTION 63. Amends Section 621.356, Transportation Code, to make conforming changes.

SECTION 64. Amends Section 621.504, Transportation Code, to prohibit a person from operating or attempting to operate a vehicle over or on a bridge or through an underpass or similar structure unless the height of the vehicle, including load, is less than the vertical clearance of the structure as shown by the records of TxDOT.

SECTION 65. Amends Section 622.001, Transportation Code, as follows:

Sec. 622.001. New heading: DEFINITIONS. Defines, in this chapter, "commission" and redefines "department."

SECTION 66. Amends Subchapter A, Chapter 622, Transportation Code, by adding Section 622.002, as follows:

Sec. 622.002. RULEMAKING AUTHORITY. Authorizes the board of TxDMV to adopt rules necessary to implement and enforce this chapter.

SECTION 67. Amends Sections 622.013(a) and (b), Transportation Code, as follows:

(a) Requires the owner of a ready-mixed concrete truck with a tandem axle weight heavier than 34,000 pounds to before operating the vehicle on a public highway of this state file with TxDMV a surety bond subject to the approval of TxDOT in the principal amount set by TxDOT not to exceed \$15,000 for each truck.

(b) Requires that the bond be conditioned that the owner of the truck will pay to TxDOT, rather than to the state, within the limit of the bond, any damage to a highway caused by the operation of the truck.

SECTION 68. Amends Sections 622.134(a) and (b), Transportation Code, as follows:

(a) Requires the owner of a vehicle covered by this subchapter with a tandem axle weight heavier than 34,000 pounds, except as provided by Subsection (c) (providing that Subsection (a) does not apply to a vehicle owned by a municipality or a county), to before operating the vehicle on a public highway of this state file with TxDMV a surety bond subject to the approval of TxDOT in the principal amount set by TxDOT not to exceed \$15,000 for each vehicle.

(b) Requires that the bond be conditioned that the owner of the vehicle will pay, within the limits of the bond, to TxDOT, rather than to the state, any damage to a highway, to a county any damage to a county road, and to a municipality any damage to a municipal street caused by the operation of the vehicle.

SECTION 69. Amends Section 623.001, Transportation Code, by amending Subdivision (1) and adding Subdivisions (4) and (5), to redefine "department" and define "board" and "commission."

SECTION 70. Amends Subchapter A, Chapter 623, Transportation Code, by adding Sections 623.002 and 623.003, as follows:

Sec. 623.002. RULEMAKING AUTHORITY. Authorizes the board of TxDMV to adopt rules necessary to implement and enforce this chapter.

Sec. 623.003. ROUTE DETERMINATION. (a) Requires TxDMV, to the extent TxDMV is required to determine a route under this chapter, to base TxDMV's routing decision on information provided by TxDOT.

(b) Requires TxDOT to provide TxDMV with all routing information necessary to complete a permit issued under Section 623.071 (Permit to Move Certain Heavy Equipment), 623.121 (Permit to Move Portable Building Unit), 623.142 (Permit to Move Oil Well Servicing or Drilling Machinery), or 623.192 (Permit to Move Unladen Lift Equipment Motor Vehicles).

SECTION 71. Amends Section 623.0112, Transportation Code, to require a person, when the person applies for a permit under Section 623.011 (Permit for Excess Axle or Gross Weight), to pay in addition to other fees an administrative fee adopted by the board of TxDMV rule, rather than adopted by TxDOT rule, in an amount not to exceed the direct and indirect cost to TxDMV of issuing a sticker under Section 623.011(d) (relating to requiring TxDMV to issue a sticker when TxDMV issues a permit under this section), distributing fees under Section 621.353 (Distribution of Fee for Permit for Excess Weight), and notifying counties under Section 623.013 (Department's Notice to County).

SECTION 72. Amends Section 623.012(b), Transportation Code, to require that the bond or letter of credit be in the amount of \$15,000 payable to TxDOT and the counties of this state, be conditioned that the applicant will pay TxDOT 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 (Weight Limitations) of Chapter 621 (General Provisions Relating to Vehicle Size and Weight) or Section 621.301 (County's Authority to Set Maximum Weights), and provide that the issuer is to notify TxDOT and the applicant in writing promptly after a payment is made by the issuer on the bond or letter of credit.

SECTION 73. Amends Sections 623.016(a) and (b), Transportation Code, as follows:

(a) Authorizes TxDOT or a county to 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) Provides that venue for a suit by TxDOT is in a district court in the county in which the defendant resides, the county in which the defendant has its principal place of business in this state if the defendant is a corporation or partnership, or Travis County if the defendant is a corporation or partnership that does not have a principal place of business in this state.

SECTION 74. Amends Section 623.051(a), Transportation Code, to authorize a person to operate a vehicle that cannot comply with one or more of the restrictions of Subchapter C (Size Limitations) of Chapter 621 or Section 621.101 (Maximum Weight of Vehicle or Combination) to cross the width of any road or highway under the jurisdiction of TxDOT, other than a controlled access highway as defined by Section 203.001 (Definitions), from private property to other private property if the person contracts with TTC to indemnify TxDOT for the cost of maintenance and repair of the part of the highway crossed by the vehicle.

SECTION 75. Amends Section 623.052(b), Transportation Code, as follows:

(b) Requires a person, before the person may operate a vehicle under this section, to:

(1) contract with TxDOT to indemnify TxDOT for the cost of the maintenance and repair for damage caused by a vehicle crossing that part of the highway; and

(2) Makes no changes to this subdivision.

SECTION 76. Amends Section 623.075(a), Transportation Code, to require an applicant, before TxDMV may issue a permit under this subchapter, to file with TxDMV a bond in an amount set by TxDOT, payable to TxDOT, and conditioned that the applicant will pay to TxDOT any damage that might be sustained to the highway because of the operation of the equipment for which a permit is issued.

SECTION 77. Amends Sections 623.076(b) and (c), Transportation Code, as follows:

(b) Authorizes the board of TxDMV, rather than TTC, to adopt rules for the payment of a fee under Subsection (a). Authorizes the rules to:

(1) authorize the use of electronic funds transfer;

(2) authorize the use of a credit card issued by a financial institution chartered by a state or the United States; or a nationally recognized credit organization approved by the board of TxDMV, rather than TTC; 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) Requires that an application for a permit under Section 623.071(c)(3) (relating to authorizing a permit for certain superheavy or oversize equipment) or (d) (relating to authorizing TxDMV to issue an annual permit for certain superheavy or oversize equipment) be accompanied by the permit fee established by the board of TxDMV, in consultation with TTC, for the permit, not to exceed \$7,000.

SECTION 78. Amends Section 623.078, Transportation Code, as follows:

Sec. 623.078. VEHICLE SUPERVISION FEE. (a) Requires each applicant for a permit under this subchapter for a vehicle that is heavier than 200,000 pounds to also pay a vehicle supervision fee in an amount determined by TxDOT and designed to recover the direct cost of providing safe transportation of the vehicle over the state highway system,

including the cost of bridge structure analysis, the monitoring of the trip process, and moving traffic control devices.

(b) Requires the board of TxDMV, rather than TxDMV, to send each fee collected under Subsection (a) to the comptroller for deposit to the credit of the state highway fund.

SECTION 79. Amends Section 623.080(a), Transportation Code, to require that a permit under this subchapter, except as provided by Subsection (b) (relating to contents of permit), include certain information, including the signature of the director of TxDMV, rather than the signature of the director of TxDOT or of a division engineer.

SECTION 80. Amends Section 623.093(f), Transportation Code, to provide that, if an application for a permit to move a manufactured house is accompanied by a copy of a writ of possession issued by a court of competent jurisdiction, the applicant is not required to submit the written statement from the chief appraiser, rather than the written statement from the chief appraiser set forth in Subsection (d) (repealed subsection relating to contents of application and permit).

SECTION 81. Amends Section 623.096(b), Transportation Code, to require the board of TxDMV, in consultation with TxDOT, rather than to require TxDOT, to adopt rules concerning fees for each annual permit issued under Section 623.095(c) (relating to permit types) at a cost not to exceed \$3,000.

SECTION 82. Amends Section 623.099(e), Transportation Code, to require TxDOT to publish and annually revise a map or list of the bridges or overpasses that because of height or width require an escort flag vehicle to stop oncoming traffic while a manufactured house crosses the bridge or overpass.

SECTION 83. Amends Sections 623.100(b) and (c), Transportation Code, as follows:

(b) Authorizes TxDOT to limit the hours for travel on certain routes because of heavy traffic conditions.

(c) Requires TxDOT to publish the limitation on movements prescribed by this section and the limitations adopted under Subsection (b) and to make the publications available to the public. Requires that each limitation adopted by TxDOT be made available to the public before it takes effect.

SECTION 84. Amends Section 623.126(a), Transportation Code, to require that a permit issued under this subchapter contain certain information, including that it be dated and signed by the director of TxDMV or a designated agent, rather than by the director of TxDOT, a division engineer, or a designated agent.

SECTION 85. Amends Section 623.142(a), Transportation Code, to authorize TxDMV, on application, to issue a permit for the movement over a road or highway under the jurisdiction of TxDOT of a certain vehicles.

SECTION 86. Amends Sections 623.145 and 623.146, Transportation Code, as follows:

Sec. 623.145. RULES; FORMS AND PROCEDURES; FEES. (a) Requires the board of TxDMV, in consultation with TTC, rather than requires TTC, by rule to provide for the issuance of permits under this subchapter. Requires that the rules include each matter the board of TxDMV and TTC determine necessary to implement this subchapter and certain other elements.

(b) Requires the board of TxDMV and TTC, in adopting a rule or establishing a fee, to consider and be guided by certain information set forth under this subsection.

Sec. 623.146. VIOLATION OF RULE. Provides that 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 of TxDMV, rather than a rule of TTC, 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.

SECTION 87. Amends Sections 623.163(a) and (b), Transportation Code, as follows:

(a) Requires the owner of a vehicle used exclusively to transport solid waste with a tandem axle load heavier than 34,000 pounds to, before operating the vehicle on a public highway of this state, file with TxDMV a surety bond subject to the approval of TxDOT in the principal amount set by TxDOT not to exceed \$15,000 for each vehicle.

(b) Requires that the bond be conditioned that the owner of the vehicle will pay to TxDOT, rather than to the state, and to any municipality in which the vehicle is operated on a municipal street, within the limit of the bond, any damages to a highway or municipal street caused by the operation of the vehicle.

SECTION 88. Amends Section 623.192(a), Transportation Code, to authorize TxDMV, on application, issue a permit to a person to move over a road or highway under the jurisdiction of TxDOT an unladen lift equipment motor vehicle that cannot comply with the restrictions set out in Subchapter C of Chapter 621 and Section 621.101. Makes a nonsubstantive change.

SECTION 89. Amends Sections 623.195 and 623.196, Transportation Code, as follows:

Sec. 623.195. RULES; FORMS AND PROCEDURES; FEES. (a) Requires the board of TxDMV, in consultation with TTC, rather than requires TTC, by rule to provide for the issuance of a permit under this subchapter. Requires that the rules include each matter the board of TxDMV and TTC determine necessary to implement this subchapter and certain other elements.

(b) Requires the board of TxDMV, in consultation with TTC, rather than requires TTC, in adopting a rule or establishing a fee, to consider and be guided by certain information set forth under this subsection.

Sec. 623.196. VIOLATION OF RULE. Provides that 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 of TxDMV, rather than a rule of TTC, 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.

SECTION 90. Amends Section 623.212, Transportation Code, to authorize TTC, rather than TxDOT, to authorize a port authority to issue permits for the movement of oversize or overweight vehicles carrying cargo on state highways located in counties contiguous to the Gulf of Mexico or a bay or inlet opening into the gulf and bordering the United Mexican States.

SECTION 91. Amends Section 623.215(b), Transportation Code, to require a port authority to report to the TxDOT all permits issued under this subchapter.

SECTION 92. Amends Section 623.233, Transportation Code, to require the district to make payments to TxDOT to provide funds for the maintenance of state highways subject to this subchapter.

SECTION 93. Amends Section 623.235(b), Transportation Code, to require the district to report to TxDOT all permits issued under this subchapter.

SECTION 94. Amends Section 623.253, Transportation Code, to require the county to make payments to TxDOT to provide funds for the maintenance of state highways subject to this subchapter.

SECTION 95. Amends Section 623.304, Transportation Code, to require the port authority to make payments to TxDOT to provide funds for the maintenance of state highways subject to this subchapter.

SECTION 96. Amends Section 547.304(c), Transportation Code, to provide that, except for Sections 547.323 (Stoplamps Required) and 547.324 (Turn Signal Lamps Required), a provision of this chapter that requires a vehicle to be equipped with lamps, reflectors, and lighting equipment does not apply to a mobile home if the mobile home is moved under a permit issued by TxDMV, rather than TxDOT, under Subchapter D (Heavy Equipment), Chapter 623 (Permits for Oversize or Overweight Vehicles), and is not moved at a time or under a condition specified by Section 547.302(a) (relating to nighttime or certain conditions).

SECTION 97. Amends Section 1001.002(b), Transportation Code, to require TxDMV, in addition to the other duties required of TxDMV, to administer and enforce certain provisions, including Chapters 621, 622, 623, 642 (Identifying Markings on Commercial Motor Vehicles), 643 (Motor Carrier Registration), 645 (Single State Registration), 646 (Motor Transportation Brokers), and 648 (Foreign Commercial Motor Transportation).

SECTION 98. Amends Sections 1201.161(a), (b), and (c), Occupations Code, as follows:

(a) Provides that, notwithstanding any other statute or rule or ordinance, a licensed retailer or licensed installer is not required to obtain a permit, certificate, or license or pay a fee to transport manufactured housing to the place of installation except as required by TxDMV, rather than except as required by TxDOT, under Subchapter E (Manufactured and Industrialized Housing), Chapter 623, Transportation Code.

(b) Requires the Texas Department of Housing and Community Affairs (TDHCA) to cooperate with TxDMV, rather than with TxDOT, by providing current lists of licensed manufacturers, retailers, and installers.

(c) Requires TxDMV, rather than requires TxDOT, to send TDHCA monthly a copy of each permit issued in the preceding month for the movement of manufactured housing on the highways, or a list of the permits issued in the preceding month and the information on the permits.

SECTION 99. Repealers: Sections 201.0545 (Recommendations to Legislature), 223.201(h) (relating to providing that Subsection (f) (relating to the expiration date of the authority to enter into comprehensive development agreements) does not apply to certain comprehensive development agreements), and 370.314 (Design-Build Procedures), Transportation Code.

SECTION 100. (a) Provides that a governmental act taken or a decision made by TxDOT and TTC under Subchapter E (Comprehensive Development Agreements), Chapter 223 (Bids and Contracts for Highway Projects), Transportation Code, before the effective date of this Act, to negotiate, execute, or otherwise enter into a comprehensive development agreement or facility agreement relating to the North Tarrant Express project is conclusively presumed, as of the date the act or decision occurred, to be valid and to have occurred in accordance with all applicable law.

(b) Provides that this Act does not validate any governmental act or decision that is inconsistent with Section 223.201, Transportation Code, as amended by this Act, and Section 223.2012, Transportation Code, as added by this Act, relating to the North Tarrant Express project; was void at the time the act or decision occurred; violates the terms of federal law or a federal waiver; or was a misdemeanor or a felony under a statute of this state or the United States at the time the act or decision occurred.

(c) Provides that this Act does not apply to any matter that on the effective date of this Act is involved in litigation if the litigation ultimately results in the matter being held invalid by a final court judgment; or has been held invalid by a final court judgment.

SECTION 101. Effective date, this section and the sections of this Act that amend Section 223.201, Transportation Code, add Sections 223.2011 and 223.2012, Transportation Code, repeal Section 223.201(h), Transportation Code, and provide transitional information related to those sections: upon passage or September 1, 2011.

SECTION 102. (a) Provides that, except as otherwise provided by this Act, not later than January 1, 2012, the following are transferred from TxDOT to TxDMV:

(1) the powers, duties, functions, programs, activities, and rights of action of TxDOT relating to oversized and overweight vehicles under Chapters 621, 622, and 623, Transportation Code;

(2) any obligations, funds, negotiations, grants, memoranda of understanding, leases, rights, and contracts of TxDOT that are directly related to implementing a power, duty, function, program, activity, or right of action transferred under this subsection; and

(3) all personnel, furniture, computers, equipment, other property, records, and related materials in the custody of TxDOT that are related to a power, duty, function, program, activity, or right of action transferred under this subsection and all funds appropriated by the legislature for that power, duty, function, program, activity, or right of action.

(b) Requires TxDMV to continue any case or proceeding relating to oversized and overweight vehicles under Chapters 621, 622, and 623, Transportation Code, that was brought before the effective date of this Act in accordance with the law in effect on the date the case or proceeding was brought, and the former law is continued in effect for that purpose.

(c) Provides that a certificate, license, document, permit, registration, or other authorization issued by TxDOT relating to oversized and overweight vehicles under Chapters 621, 622, and 623, Transportation Code, 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 TxDMV.

(d) Provides that the unobligated and unexpended balance of any appropriations made to TxDOT in connection with or relating to oversized and overweight vehicles under Chapter 621, 622, or 623, Transportation Code, for the state fiscal biennium ending August 31, 2011, is transferred and reappropriated to TxDMV for the purpose of implementing the powers, duties, obligations, and rights of action transferred to that department.

(e) Requires TxDOT to continue, as necessary, to perform the duties and functions that are being transferred to TxDMV under this Act until the transfer of agency duties and functions is complete.

(f) Provides that a rule or form adopted by TxDOT that relates to a power, duty, function, program, activity, or right of action transferred under Subsection (a) of this section is a rule or form of TxDMV and remains in effect until altered by TxDMV.

(g) Provides that a reference in law to TxDOT that relates to a power, duty, function, program, activity, or right of action transferred under Subsection (a) of this section means TxDMV.

SECTION 103. (a) Authorizes TxDMV to enter into a memorandum of understanding with a state agency, including TxDOT, if the board of TxDMV determines the memorandum is

necessary or appropriate to implement the changes made by this Act to Chapters 621, 622, and 623, Transportation Code.

(b) Authorizes the memorandum of understanding described by Subsection (a) of this section to:

(1) coordinate TxDMV's and TxDOT's information systems to allow for the sharing of information so each department may effectively and efficiently perform the functions and duties assigned to the department;

(2) provide for implementing the memorandum using existing personnel and resources from TxDMV and TxDOT;

(3) allow for the sharing of otherwise confidential information subject to the same confidentiality requirements and legal restrictions on access to the information that are imposed by law on the agency that originally obtained or collected the information;

(4) allow for the sharing of information without the consent of the person who is the subject of the information; and

(5) include an agreement for:

(A) the provision of office space, utilities, and other facility services;

(B) the need for full-time equivalent positions of TxDOT to provide support services in addition to the positions transferred to TxDMV under Section 102(a)(3) of this Act;

(C) support services; and

(D) the transfer of information technology as necessary or appropriate to effectuate the transfer of the powers and duties of TxDOT to TxDMV.

(c) Prohibits TxDMV and TxDOT from imposing, collecting, or charging a fee in connection with the sharing of information under a memorandum of understanding entered into or revised under this section.

SECTION 104. Effective date, except as otherwise provided by this Act: September 1, 2011.