

1-1 By: Kolkhorst, et al. (Senate Sponsor - Hegar) H.B. No. 1201
1-2 (In the Senate - Received from the House April 11, 2011;
1-3 April 20, 2011, read first time and referred to Committee on
1-4 Transportation and Homeland Security; May 17, 2011, reported
1-5 adversely, with favorable Committee Substitute by the following
1-6 vote: Yeas 6, Nays 0; May 17, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1201 By: Nichols

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to repeal of authority for the establishment and operation
1-11 of the Trans-Texas Corridor.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 11.11(j), Tax Code, is amended to read as
1-14 follows:

1-15 (j) For purposes of this section, any portion of a facility
1-16 owned by the Texas Department of Transportation that is ~~[part of the~~
1-17 ~~Trans-Texas Corridor, is]~~ a rail facility or system~~[7]~~ or is a
1-18 highway in the state highway system, and that is licensed or leased
1-19 to a private entity by that department under Chapter 91 or~~[7]~~ 223,
1-20 ~~[or 227]~~ Transportation Code, is public property used for a public
1-21 purpose if the rail facility or system, highway, or facility is
1-22 operated by the private entity to provide transportation or utility
1-23 services. Any part of a facility, rail facility or system, or state
1-24 highway that is licensed or leased to a private entity for a
1-25 commercial purpose is not exempt from taxation.

1-26 SECTION 2. Section 25.06(c), Tax Code, is amended to read as
1-27 follows:

1-28 (c) This section does not apply to:

1-29 (1) any portion of a facility owned by the Texas
1-30 Department of Transportation that is ~~[part of the Trans-Texas~~
1-31 ~~Corridor, is]~~ a rail facility or system~~[7]~~ or is a highway in the
1-32 state highway system and that is licensed or leased to a private
1-33 entity by that department under Chapter 91~~[7, 227, or 361]~~,
1-34 Transportation Code; or

1-35 (2) a leasehold or other possessory interest granted
1-36 by the Texas Department of Transportation in a facility owned by
1-37 that department that is ~~[part of the Trans-Texas Corridor, is]~~ a
1-38 rail facility or system~~[7]~~ or is a highway in the state highway
1-39 system.

1-40 SECTION 3. Section 25.07(c), Tax Code, is amended to read as
1-41 follows:

1-42 (c) Subsection (a) does not apply to:

1-43 (1) any portion of a facility owned by the Texas
1-44 Department of Transportation that is ~~[part of the Trans-Texas~~
1-45 ~~Corridor, is]~~ a rail facility or system~~[7]~~ or is a highway in the
1-46 state highway system and that is licensed or leased to a private
1-47 entity by that department under Chapter 91~~[7, 227, or 361]~~,
1-48 Transportation Code; or

1-49 (2) a leasehold or other possessory interest granted
1-50 by the Texas Department of Transportation in a facility owned by
1-51 that department that is ~~[part of the Trans-Texas Corridor, is]~~ a
1-52 rail facility or system~~[7]~~ or is a highway in the state highway
1-53 system.

1-54 SECTION 4. Sections 201.616(a) and (b), Transportation
1-55 Code, are amended to read as follows:

1-56 (a) Not later than December 1 of each year, the department
1-57 shall submit a report to the legislature that details:

1-58 (1) the expenditures made by the department in the
1-59 preceding state fiscal year in connection with:

1-60 (A) the unified transportation program of the
1-61 department;

1-62 (B) turnpike projects and toll roads of the
1-63 department; and

(C) ~~[the Trans-Texas Corridor,~~
~~[(D)]~~ rail facilities described in Chapter 91;
 [and

~~[(E) non-highway facilities on the Trans-Texas Corridor if those expenditures are subject to Section 227.062(c);]~~

(2) the amount of bonds or other public securities issued for transportation projects; and

(3) the direction of money by the department to a regional mobility authority in this state.

(b) The report must break down information under Subsection (a)(1)(A) by program category and department district. The report must break down information under Subsections (a)(1)(B) and ~~[(C), (D), and (E)]~~ and Subsection (a)(3) by department district. The report must break down information under Subsection (a)(2) by department district and type of project.

SECTION 5. Section 202.112(a), Transportation Code, is amended to read as follows:

(a) The commission may purchase an option to acquire property for possible use in or in connection with a transportation facility ~~[, including a facility as defined by Section 227.001,~~ before a final decision has been made as to whether the transportation facility will be located on that property.

SECTION 6. Section 222.003(e), Transportation Code, is amended to read as follows:

(e) The proceeds of bonds and other public securities issued under this section may not be used for any purpose other than any costs related to the bonds and other public securities and the purposes for which revenues are dedicated under Section 7-a, Article VIII, Texas Constitution. ~~[The proceeds of bonds and other public securities issued under this section may not be used for the construction of a state highway or other facility on the Trans-Texas Corridor. For purposes of this section, the "Trans-Texas Corridor" means the statewide system of multimodal facilities under the jurisdiction of the department that is designated by the commission, notwithstanding the name given to that corridor.]~~

SECTION 7. Section 223.201(a), Transportation Code, is amended to read as follows:

(a) Subject to Section 223.202, the department may enter into a comprehensive development agreement with a private entity to design, develop, finance, construct, maintain, repair, operate, extend, or expand a:

(1) toll project;
 (2) ~~[facility or a combination of facilities on the Trans-Texas Corridor,~~

~~[(3)]~~ state highway improvement project that includes both tolled and nontolled lanes and may include nontolled appurtenant facilities;

(3) ~~[(4)]~~ state highway improvement project in which the private entity has an interest in the project; or

(4) ~~[(5)]~~ state highway improvement project financed wholly or partly with the proceeds of private activity bonds, as defined by Section 141(a), Internal Revenue Code of 1986.

SECTION 8. Section 223.206(d), Transportation Code, is amended to read as follows:

(d) The department may not enter into a comprehensive development agreement with a private entity under this subchapter ~~[or Section 227.023]~~ that provides for the lease, license, or other use of rights-of-way or related property by the private entity for the purpose of constructing, operating, or maintaining an ancillary facility that is used for commercial purposes.

SECTION 9. Sections 223.208(b), (c), (e), and (f), Transportation Code, are amended to read as follows:

(b) A comprehensive development agreement entered into under this subchapter ~~[or Section 227.023(c)]~~ may include any provision that the department considers appropriate, including provisions:

(1) providing for the purchase by the department, under terms and conditions agreed to by the parties, of the interest

of a private participant in the comprehensive development agreement and related property, including any interest in a highway or other facility designed, developed, financed, constructed, operated, or maintained under the comprehensive development agreement;

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

(3) providing for the payment of obligations incurred pursuant to the comprehensive development agreement, including any obligation to pay the purchase price for the interest of a private participant in the comprehensive development agreement, from any lawfully available source, including securing such obligations by a pledge of revenues of the commission or the department derived from the applicable project, which pledge shall have such priority as the department may establish;

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

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

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

(c) The department may enter into a comprehensive development agreement under this subchapter ~~[or under Section 227.023(c)]~~ with a private participant only if the project is identified in the department's unified transportation program or is located on a transportation corridor identified in the statewide transportation plan.

(e) Notwithstanding anything in Section 201.112 or other law to the contrary, and subject to compliance with the dispute resolution procedures set out in the comprehensive development agreement, an obligation of the commission or the department under a comprehensive development agreement entered into under this subchapter ~~[or Section 227.023(c)]~~ to make or secure payments to a person because of the termination of the agreement, including the purchase of the interest of a private participant or other investor in a project, may be enforced by mandamus against the commission, the department, and the comptroller in a district court of Travis County, and the sovereign immunity of the state is waived for that purpose. The district courts of Travis County shall have exclusive jurisdiction and venue over and to determine and adjudicate all issues necessary to adjudicate any action brought under this subsection. The remedy provided by this subsection is in addition to any legal and equitable remedies that may be available to a party to a comprehensive development agreement.

(f) A comprehensive development agreement entered into under this subchapter ~~[or Section 227.023(c)]~~ and any obligations incurred, issued, or owed under the agreement does not constitute a state security under Chapter 1231, Government Code.

SECTION 10. Section 224.1541, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) The commission may authorize the operation of a vehicle that exceeds the weight limitations of Subchapter B, Chapter 621, or the size limitations of Subchapter C, Chapter 621, on a lane designated as an exclusive lane under this section if supported by an engineering and traffic study that includes an analysis of the structural capacity of bridges and pavements, current and projected traffic patterns and volume, and potential effects on public safety. This subsection does not authorize the operation of a vehicle that exceeds a maximum axle weight authorized by Chapter 621, 622, or 623. This subsection does not apply to a roadway that is a part of the national system of interstate and defense highways.

SECTION 11. Section 545.353, Transportation Code, is amended by adding Subsection (h-2) to read as follows:

(h-2) Notwithstanding Section 545.352(b), as amended by Chapters 663 (H.B. 385) and 739 (H.B. 1075), Acts of the 76th

Legislature, Regular Session, 1999, the commission may establish a speed limit not to exceed 85 miles per hour on a part of the state highway system if:

(1) that part of the highway system is designed to accommodate travel at that established speed or a higher speed; and

(2) the commission determines, after an engineering and traffic investigation, that the established speed limit is reasonable and safe for that part of the highway system.

SECTION 12. Section 371.001(2), Transportation Code, is amended to read as follows:

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

(A) the department[, ~~including under Chapter 227~~];

(B) a regional tollway authority under Chapter 366;

(C) a regional mobility authority under Chapter 370; or

(D) a county under Chapter 284.

SECTION 13. Section 372.001(2), Transportation Code, is amended to read as follows:

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

(A) the department under Chapter [~~227 or~~] 228;

(B) a regional tollway authority under Chapter 366;

(C) a regional mobility authority under Chapter 370; or

(D) a county under Chapter 284.

SECTION 14. The following provisions of the Transportation Code are repealed:

(1) Section 201.618(e);

(2) Chapter 227;

(3) Section 284.0032;

(4) Section 366.305;

(5) Section 370.316; and

(6) Section 545.3531.

SECTION 15. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

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