

AN ACT

relating to the continuation and functions of the Texas Department of Transportation; providing penalties.

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

SECTION 1. (a) Section 12.0011, Parks and Wildlife Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Recommendations and information submitted by the department under Subsection (b) in response to a request for comments from the Texas Department of Transportation must be submitted not later than the 45th day after the date the department receives the request.

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

SECTION 2. Section 201.001, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) In this chapter, "local transportation entity" means an entity that participates in the transportation planning process, including:

- (1) a regional tollway authority under Chapter 366;
- (2) a rapid transportation authority under Chapter 451;
- (3) a regional transportation authority under Chapter

1 452;

2 (4) a rural transit district under Chapter 458;

3 (5) a coordinated county transportation authority
4 under Chapter 460; or

5 (6) a metropolitan planning organization under
6 Subchapter D, Chapter 472.

7 SECTION 3. (a) Section 201.051, Transportation Code, is
8 amended by amending Subsections (b), (d), (f), (g), (h), and (j) and
9 adding Subsection (b-1) to read as follows:

10 (b) The members shall be appointed to reflect the diverse
11 geographic regions and population groups of this state. One member
12 must reside in a rural area and be a registered voter of a county
13 with a population of less than 150,000.

14 (b-1) A member of the commission may not accept a
15 contribution to a campaign for election to an elected office. If a
16 commissioner accepts a campaign contribution, the person is
17 considered to have resigned from the office and the office
18 immediately becomes vacant. The vacancy shall be filled in the
19 manner provided by law.

20 (d) A [~~Except as provided by Subsection (e), a~~] person is
21 not eligible to serve [~~for appointment~~] as a member of the
22 commission if the person or the person's spouse:

23 (1) is employed by or participates in the management
24 of a business entity or other organization that is regulated by or
25 receives funds from the department;

26 (2) directly or indirectly owns or controls more than
27 10 percent interest in a business entity or other organization that

1 is regulated by or receives funds from the department;

2 (3) uses or receives a substantial amount of tangible
3 goods, services, or funds from the department, other than
4 compensation or reimbursement authorized by law for commission
5 membership, attendance, or expenses; or

6 (4) is registered, certified, or licensed by the
7 department.

8 (f) An officer, employee, or paid consultant of a Texas
9 trade association in the field of road construction or maintenance,
10 aviation, or outdoor advertising is not eligible to serve as [~~or a~~
11 ~~Texas trade association of automobile dealers may not be~~] a member
12 of the commission.

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

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

23 (j) In this section, "Texas trade association" means a
24 [~~nonprofit,~~] cooperative[~~7~~] and voluntarily joined statewide
25 association of business or professional competitors in this state
26 designed to assist its members and its industry or profession in
27 dealing with mutual business or professional problems and in

1 promoting their common interest.

2 (b) Subsection (b), Section 201.051, Transportation Code,
3 as amended by this section, does not affect the right of a
4 commissioner serving on the effective date of this Act to complete
5 the commissioner's term. The requirement of Subsection (b),
6 Section 201.051, Transportation Code, as amended by this section,
7 applies at the time a vacancy occurs in the position held by the
8 person serving as the rural designee on the effective date of this
9 Act.

10 SECTION 4. Subsection (a), Section 201.053, Transportation
11 Code, is amended to read as follows:

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

15 SECTION 5. Subsection (a), Section 201.057, Transportation
16 Code, is amended to read as follows:

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

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

22 (2) violates a prohibition provided by Section
23 201.051;

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

27 (4) is absent from more than half of the regularly

1 scheduled commission meetings that the commissioner is eligible to
2 attend during a calendar year, unless the absence is excused by
3 majority vote of the commission.

4 SECTION 6. Section 201.058, Transportation Code, is amended
5 to read as follows:

6 Sec. 201.058. INFORMATION ON QUALIFICATIONS AND CONDUCT.
7 The department shall provide to the members of the commission, as
8 often as necessary, information concerning the members'
9 qualifications for office [~~under Subchapter B~~] and their
10 responsibilities under applicable laws relating to standards of
11 conduct for state officers.

12 SECTION 7. Subchapter C, Chapter 201, Transportation Code,
13 is amended by adding Section 201.1075 to read as follows:

14 Sec. 201.1075. CHIEF FINANCIAL OFFICER. (a) The chief
15 financial officer shall ensure that the department's financial
16 activities are conducted in a transparent and reliable manner.

17 (b) The chief financial officer shall certify each month
18 that any state highway construction and maintenance contracts to be
19 awarded by the department during that month will not create state
20 liability that exceeds the department's most recent cash flow
21 forecast.

22 SECTION 8. Subchapter C, Chapter 201, Transportation Code,
23 is amended by adding Sections 201.118 and 201.119 to read as
24 follows:

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

1 (1) negotiated rulemaking procedures under Chapter
2 2008, Government Code, for the adoption of department rules; and

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

7 (b) The department's procedures relating to alternative
8 dispute resolution must conform, to the extent possible, to any
9 model guidelines issued by the State Office of Administrative
10 Hearings for the use of alternative dispute resolution by state
11 agencies.

12 (c) The department shall:

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

15 (2) provide training as needed to implement the
16 procedures for negotiated rulemaking or alternative dispute
17 resolution; and

18 (3) collect data concerning the effectiveness of those
19 procedures.

20 Sec. 201.119. LEGISLATIVE APPROPRIATIONS REQUEST.

21 (a) Department staff shall deliver the department's legislative
22 appropriations request to the commission in an open meeting not
23 later than the 30th day before the date the department submits the
24 legislative appropriations request to the Legislative Budget
25 Board.

26 (b) The commission may adopt the legislative appropriations
27 request in the meeting described by Subsection (a) or in a

1 subsequent open meeting.

2 SECTION 9. Subchapter Y, Chapter 201, Transportation Code,
3 is amended by adding Section 201.2002 to read as follows:

4 Sec. 201.2002. EDMUND P. KUEMPEL REST AREAS. (a) The
5 eastbound and westbound rest areas located on Interstate Highway 10
6 in Guadalupe County are designated as the Edmund P. Kuempel Rest
7 Areas.

8 (b) The department shall design and construct markers at
9 each rest area described by Subsection (a) indicating the
10 designation of those rest areas as the Edmund P. Kuempel Rest Areas
11 and any other appropriate information.

12 (c) The department shall erect markers at appropriate
13 locations at the rest areas.

14 (d) Notwithstanding Subsections (b) and (c), the department
15 is not required to design, construct, or erect a marker under this
16 section unless a grant or donation of private funds is made to the
17 department to cover the cost of the design, construction, and
18 erection of the marker.

19 (e) Money received under Subsection (d) shall be deposited
20 to the credit of the state highway fund.

21 SECTION 10. Section 201.204, Transportation Code, is
22 amended to read as follows:

23 Sec. 201.204. SUNSET PROVISION. The Texas Department of
24 Transportation is subject to Chapter 325, Government Code (Texas
25 Sunset Act). Unless continued in existence as provided by that
26 chapter, the department is abolished September 1, 2015 [~~2011~~].

27 SECTION 11. Subchapter D, Chapter 201, Transportation Code,

1 is amended by adding Section 201.2041 to read as follows:

2 Sec. 201.2041. SUBMISSION OF FINANCIAL AUDIT TO SUNSET
3 COMMISSION. (a) The department shall submit with its agency
4 report under Section 325.007, Government Code, a complete and
5 detailed financial audit conducted by an independent certified
6 public accountant.

7 (b) Subsection (a) does not apply if the department is
8 subject to sunset review during the previous two-year period.

9 SECTION 12. Subchapter D, Chapter 201, Transportation Code,
10 is amended by adding Sections 201.210 and 201.211 to read as
11 follows:

12 Sec. 201.210. LEGISLATIVE LOBBYING. (a) In addition to
13 Section 556.006, Government Code, the commission or a department
14 employee may not use money under the department's control or engage
15 in an activity to influence the passage or defeat of legislation.

16 (b) Violation of Subsection (a) is grounds for dismissal of
17 an employee.

18 (c) This section does not prohibit the commission or
19 department employee from using state resources to:

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

22 (2) communicate with officers and employees of the
23 federal government in pursuit of federal appropriations or
24 programs.

25 (d) The department may not spend from funds appropriated to
26 the department any money for the purpose of selecting, hiring, or
27 retaining a person required to register under Chapter 305,

1 Government Code, or the Lobbying Disclosure Act of 1995 (2 U.S.C.
2 Section 1601 et seq.), unless that expenditure is allowed under
3 state law.

4 Sec. 201.211. ETHICS AFFIRMATION AND HOTLINE. (a) A
5 department employee shall annually affirm the employee's adherence
6 to the ethics policy adopted under Section 572.051(c), Government
7 Code.

8 (b) The department shall establish and operate a telephone
9 hotline that enables a person to call the hotline number,
10 anonymously or not anonymously, to report alleged fraud, waste, or
11 abuse or an alleged violation of the ethics policy adopted under
12 Section 572.051(c), Government Code.

13 SECTION 13. (a) Subsections (a) and (b), Section 201.401,
14 Transportation Code, are amended to read as follows:

15 (a) A person may not be an employee of the department who is
16 employed in a "bona fide executive, administrative, or professional
17 capacity," as that phrase is used for purposes of establishing an
18 exemption to the overtime provisions of the federal Fair Labor
19 Standards Act of 1938 (29 U.S.C. Section 201 et seq.), ~~[exempt from~~
20 ~~the state's position classification plan or compensated at or above~~
21 ~~the amount prescribed by the General Appropriations Act for step 1,~~
22 ~~salary group 17, of the position classification salary schedule] if~~
23 the person is:

24 (1) an officer, employee, or paid consultant of a
25 Texas trade association[+]

26 [~~(A)~~] in the field of road construction or
27 maintenance or outdoor advertising; or

1 [~~(B) of automobile dealers, or~~]

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

4 (b) A person may not act as general counsel to the
5 department if the person is required to register as a lobbyist under
6 Chapter 305, Government Code, because of the person's activities
7 for compensation on behalf of a profession related to the operation
8 of the department. A person who acts as general counsel to the
9 department must be licensed as an attorney in this state.

10 (b) The changes in law made by this section to Section
11 201.401, Transportation Code, in the qualifications of the general
12 counsel of the Texas Department of Transportation do not affect the
13 eligibility of a person serving in that position immediately before
14 the effective date of this Act to continue to carry out the
15 position's functions for the remainder of the person's employment
16 as general counsel. The changes in law apply only to a general
17 counsel hired on or after the effective date of this Act.

18 SECTION 14. Section 201.404, Transportation Code, is
19 amended by adding Subsections (b-1) and (b-2) to read as follows:

20 (b-1) If an annual performance evaluation indicates
21 unsatisfactory performance by an employee employed in a position at
22 or above the level of district engineer or division or office
23 director, the commission shall consider whether the employee should
24 be terminated. The annual performance evaluation of a position
25 described by this subsection must include an evaluation of an
26 employee's:

27 (1) professionalism;

1 (2) diligence; and

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

4 (b-2) If an annual performance evaluation indicates
5 unsatisfactory performance by an employee employed in a position
6 that is below the level of district engineer, the department
7 shall consider whether the employee should be terminated. The
8 department shall provide a report to the commission regarding
9 employees whose performances were unsatisfactory but who were
10 not terminated.

11 SECTION 15. (a) Chapter 201, Transportation Code, is
12 amended by adding Subchapter F-1 to read as follows:

13 SUBCHAPTER F-1. COMPLIANCE PROGRAM

14 Sec. 201.451. ESTABLISHMENT AND PURPOSE. The commission
15 shall establish a compliance program, which must include a
16 compliance office to oversee the program. The compliance office is
17 responsible for:

18 (1) acting to prevent and detect serious breaches of
19 departmental policy, fraud, waste, and abuse of office, including
20 any acts of criminal conduct within the department;

21 (2) independently and objectively reviewing,
22 investigating, delegating, and overseeing the investigation of:

23 (A) conduct described by Subdivision (1);

24 (B) criminal activity in the department;

25 (C) allegations of wrongdoing by department
26 employees;

27 (D) crimes committed on department property; and

- 1 (E) serious breaches of department policy;
- 2 (3) overseeing the operation of the telephone hotline
- 3 established under Section 201.211;
- 4 (4) ensuring that members of the commission and
- 5 department employees receive appropriate ethics training; and
- 6 (5) performing other duties assigned to the office by
- 7 the commission.

8 Sec. 201.452. INVESTIGATION OVERSIGHT. (a) The

9 compliance office has primary jurisdiction for oversight and

10 coordination of all investigations occurring on department

11 property or involving department employees.

12 (b) The compliance office shall coordinate and provide

13 oversight for an investigation under this subchapter, but the

14 compliance office is not required to conduct the investigation.

15 (c) The compliance office shall continually monitor an

16 investigation conducted within the department, and shall report to

17 the commission on the status of pending investigations.

18 Sec. 201.453. INITIATION OF INVESTIGATIONS. The compliance

19 office may only initiate an investigation based on:

- 20 (1) authorization from the commission;
- 21 (2) approval of the director of the compliance office;
- 22 (3) approval of the executive director or deputy
- 23 executive director of the department; or
- 24 (4) commission rules.

25 Sec. 201.454. REPORTS. (a) The compliance office shall

26 report directly to the commission regarding performance of and

27 activities related to investigations and provide the director with

1 information regarding investigations as appropriate.

2 (b) The director of the compliance office shall present to
3 the commission at each regularly scheduled commission meeting and
4 at other appropriate times:

5 (1) reports of investigations; and

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

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

15 (b) The director of the compliance office shall refer
16 matters for further civil, criminal, and administrative action to
17 appropriate administrative and prosecutorial agencies, including
18 the attorney general.

19 Sec. 201.456. AUTHORITY OF STATE AUDITOR. This subchapter
20 or other law related to the operation of the department's
21 compliance program does not preempt the authority of the state
22 auditor to conduct an audit or investigation under Chapter 321,
23 Government Code, or other law.

24 (b) Not later than January 1, 2013, the Texas Department of
25 Transportation shall submit a report to the legislature on the
26 effectiveness of the compliance program described by Subchapter
27 F-1, Chapter 201, Transportation Code, as added by this Act, and any

1 recommended changes in law to increase the effectiveness of the
2 compliance program.

3 SECTION 16. Section 201.601, Transportation Code, is
4 amended to read as follows:

5 Sec. 201.601. STATEWIDE TRANSPORTATION PLAN. (a) The
6 department shall develop a statewide transportation plan covering a
7 period of 24 years that contains all modes of transportation,
8 including:

- 9 (1) highways and turnpikes;
- 10 (2) aviation;
- 11 (3) mass transportation;
- 12 (4) railroads and high-speed railroads; and
- 13 (5) water traffic.

14 (a-1) The plan must:

15 (1) contain specific, long-term transportation goals
16 for the state and measurable targets for each goal;

17 (2) identify priority corridors, projects, or areas of
18 the state that are of particular concern to the department in
19 meeting the goals established under Subdivision (1); and

20 (3) contain a participation plan specifying methods
21 for obtaining formal input on the goals and priorities identified
22 under this subsection from:

- 23 (A) other state agencies;
- 24 (B) political subdivisions;
- 25 (C) local transportation entities; and
- 26 (D) the general public.

27 (b) ~~[In developing the plan, the department shall seek~~

1 ~~opinions and assistance from other state agencies and political~~
2 ~~subdivisions that have responsibility for the modes of~~
3 ~~transportation listed by Subsection (a).]~~ As appropriate, the
4 department and the entities listed in Subsection (a-1)(3) ~~[such an~~
5 ~~agency or political subdivision]~~ shall enter into a memorandum of
6 understanding relating to the planning of transportation services.

7 (c) The plan must include a component that is not
8 financially constrained and identifies transportation improvements
9 designed to relieve congestion. In developing this component of
10 the plan, the department shall seek opinions and assistance from
11 officials who have local responsibility for modes of transportation
12 listed in Subsection (a).

13 (d) ~~[The plan shall include a component, published~~
14 ~~annually, that describes the evaluation of transportation~~
15 ~~improvements based on performance measures, such as indices~~
16 ~~measuring delay reductions or travel time improvements.]~~ The
17 department shall consider the goals and measurable targets
18 established under Subsection (a-1)(1) ~~[performance measures]~~ in
19 selecting transportation projects ~~[improvements]~~.

20 (e) The department annually shall provide to the lieutenant
21 governor, the speaker of the house of representatives, and the
22 chair of the standing committee of each house of the legislature
23 with primary jurisdiction over transportation issues an analysis of
24 the department's progress in attaining the goals under Subsection
25 (a-1)(1). The department shall make the information under this
26 subsection available on its Internet website.

27 (f) The department shall update the plan every four years or

1 more frequently as necessary.

2 SECTION 17. Subchapter H, Chapter 201, Transportation Code,
3 is amended by adding Section 201.6015 to read as follows:

4 Sec. 201.6015. INTEGRATION OF PLANS AND POLICY EFFORTS. In
5 developing each of its transportation plans and policy efforts, the
6 department must clearly reference the statewide transportation
7 plan under Section 201.601 and specify how the plan or policy effort
8 supports or otherwise relates to the specific goals under that
9 section.

10 SECTION 18. (a) Section 201.607, Transportation Code, is
11 amended by amending Subsection (a) and adding Subsection (c) to
12 read as follows:

13 (a) Not later than January 1, 1997, and every fifth year
14 after that date, the department and each state agency that is
15 responsible for the protection of the natural environment or for
16 the preservation of historical or archeological resources shall
17 examine and revise their memorandum of understanding that:

18 (1) describes the responsibilities of each agency
19 entering into the memorandum relating to the review of the
20 potential environmental, historical, or archeological effect of a
21 highway project;

22 (2) specifies the responsibilities of each agency
23 entering into the memorandum relating to the review of a highway
24 project;

25 (3) specifies the types of information the department
26 must provide to the reviewing agency and the period during which the
27 department must provide the information;

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

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

9 (6) includes any other agreement necessary for the
10 effective coordination of the review of the environmental,
11 historical, or archeological effect of a highway project.

12 (c) The department by rule shall establish procedures
13 concerning coordination with agencies in carrying out
14 responsibilities under agreements under this section.

15 (b) Subsection (a), Section 201.607, Transportation Code,
16 as amended by this section, applies only to a request for comments
17 from the Texas Department of Transportation received by a state
18 agency on or after the effective date of this Act. As necessary,
19 the Texas Department of Transportation and each affected state
20 agency shall promptly revise the memorandum of understanding
21 required by Section 201.607, Transportation Code, to implement the
22 change made by this section to Subsection (a), Section 201.607,
23 Transportation Code.

24 SECTION 19. Subchapter H, Chapter 201, Transportation Code,
25 is amended by adding Section 201.620 to read as follows:

26 Sec. 201.620. COORDINATION WITH METROPOLITAN PLANNING
27 ORGANIZATIONS TO DEVELOP LONG-TERM PLANNING ASSUMPTIONS. The

1 department shall collaborate with metropolitan planning
2 organizations to develop mutually acceptable assumptions for the
3 purposes of long-range federal and state funding forecasts and use
4 those assumptions to guide long-term planning in the statewide
5 transportation plan under Section 201.601.

6 SECTION 20. Subchapter H, Chapter 201, Transportation Code,
7 is amended by adding Section 201.622 to read as follows:

8 Sec. 201.622. WILDFIRE EMERGENCY EVACUATION ROUTE.

9 (a) Notwithstanding Section 418.018, Government Code, in a county
10 with a population of less than 75,000 and with a verifiable history
11 of wildfire, the department may designate an emergency evacuation
12 route for use in the event of a wildfire emergency. The department
13 may establish criteria to determine which areas of a county are
14 subject to a potential wildfire emergency.

15 (b) The department may assist in the improvement of a
16 designated wildfire emergency evacuation route.

17 (c) Criteria for determining a wildfire emergency
18 evacuation route must provide for evacuation of commercial
19 establishments such as motels, hotels, and other businesses with
20 overnight accommodations.

21 (d) A wildfire emergency evacuation route designated under
22 Subsection (a) may include federal or state highways or county
23 roads.

24 SECTION 21. (a) Chapter 201, Transportation Code, is
25 amended by adding Subchapter I-1 to read as follows:

26 SUBCHAPTER I-1. ENVIRONMENTAL REVIEW PROCESS

27 Sec. 201.751. DEFINITIONS. In this subchapter:

1 (1) "Day" means a calendar day.

2 (2) "Federal Highway Administration" means the United
3 States Department of Transportation Federal Highway
4 Administration.

5 (3) "Highway project" means a highway or related
6 improvement that is:

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

8 (B) not part of the state highway system but
9 funded wholly or partly by federal money.

10 (4) "Local government sponsor" means a political
11 subdivision of the state that:

12 (A) elects to participate in the planning,
13 development, design, funding, or financing of a highway project;
14 and

15 (B) is a municipality or a county, a group of
16 adjoining counties, a county acting under Chapter 284, a regional
17 tollway authority operating under Chapter 366, a regional mobility
18 authority operating under Chapter 370, a local government
19 corporation, or a transportation corporation created under Chapter
20 431.

21 Sec. 201.752. STANDARDS. (a) The commission by rule shall
22 establish standards for processing an environmental review
23 document for a highway project. The standards must increase
24 efficiency, minimize delays, and encourage collaboration and
25 cooperation by the department with a local government sponsor, with
26 a goal of prompt approval of legally sufficient documents.

27 (b) The standards apply regardless of whether the

1 environmental review document is prepared by the department or a
2 local government sponsor. The standards apply to work performed by
3 the sponsor and to the department's review process and
4 environmental decision.

5 (c) The standards must address, for each type of
6 environmental review document:

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

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

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

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

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

19 (e) For highway projects described in Section 201.753(a),
20 the standards may provide a process and criteria for the
21 prioritization of environmental review documents in the event the
22 department makes a finding that it lacks adequate resources to
23 timely process all documents it receives. Standards established
24 pursuant to this subsection must provide for notification to a
25 local government sponsor if processing of an environmental review
26 document is to be delayed due to prioritization, and must ensure
27 that the environmental review document for each highway project

1 will be completed no later than one year prior to the date planned
2 for publishing notice to let the construction contract for the
3 project, as indicated in a document identifying the project under
4 Section 201.753(a)(1) or a commission order under Section
5 201.753(a)(2).

6 Sec. 201.753. ENVIRONMENTAL REVIEW LIMITED TO CERTAIN
7 PROJECTS. (a) A local government sponsor or the department may
8 prepare an environmental review document for a highway project only
9 if the highway project is:

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

14 (2) identified by the commission as being eligible for
15 participation under this subchapter.

16 (b) Notwithstanding Subsection (a), a local government
17 sponsor may prepare an environmental review document for a highway
18 project that is not identified by the commission or in a program
19 described by Subsection (a) if the sponsor submits with its notice
20 under Section 201.755 a fee in an amount established by commission
21 rule, but not to exceed the actual cost of reviewing the
22 environmental review document.

23 (c) A fee received by the department under Subsection (b)
24 must be deposited in the state highway fund and used to pay costs
25 incurred under this subchapter.

26 Sec. 201.754. SCOPE OF PROJECT. If an environmental review
27 document is prepared by a local government sponsor, the local

1 government sponsor must prepare a detailed scope of the project in
2 collaboration with the department before the department may process
3 the environmental review document.

4 Sec. 201.755. NOTICE TO DEPARTMENT. (a) A local
5 government sponsor may submit notice to the department proposing
6 that the local government sponsor prepare the environmental review
7 document for a highway project.

8 (b) The notice must include:

- 9 (1) the project scope prepared under Section 201.754;
10 and
11 (2) a request for classification of the project.

12 Sec. 201.756. LOCAL GOVERNMENT SPONSOR RESPONSIBILITIES. A
13 local government sponsor that submits notice under Section 201.755
14 is responsible for preparing all materials for:

- 15 (1) project scope determination;
16 (2) environmental reports;
17 (3) the environmental review document;
18 (4) environmental permits and conditions;
19 (5) coordination with resource agencies; and
20 (6) public participation.

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

27 (b) Not later than the 20th day after the date the

1 department receives a local government sponsor's environmental
2 review document, the department shall either:

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

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

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

16 (b) If the department provides notice under Subsection (a),
17 the department shall undertake all reasonable efforts to cooperate
18 with the local government sponsor in a timely manner to ensure that
19 the environmental review document is administratively complete.

20 (c) The local government sponsor may resubmit any
21 environmental review document determined by the department under
22 Section 201.757 not to be administratively complete, and the
23 department shall issue a determination letter on the resubmitted
24 document not later than the 20th day after the date the document is
25 resubmitted.

26 Sec. 201.759. REVIEW DEADLINES. (a) The following
27 deadlines must be included in the standards adopted under Section

1 201.752:

2 (1) the department shall issue a classification letter
3 not later than the 30th day after the date the department receives
4 notice from a local government sponsor under Section 201.755;

5 (2) for a project classified as a programmatic
6 category exclusion, the environmental decision must be rendered
7 not later than the 60th day after the date the supporting
8 documentation is received by the department;

9 (3) for a project classified as a categorical
10 exclusion, the environmental decision must be rendered not later
11 than the 90th day after the date the supporting documentation is
12 received by the department;

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

15 (A) the department must provide all department
16 comments on a draft environmental assessment not later than the
17 90th day after the date the draft is received by the department; and

18 (B) the department must render the environmental
19 decision on the project not later than the 60th day after the later
20 of:

21 (i) the date the revised environmental
22 assessment is submitted to the department; or

23 (ii) the date the public involvement
24 process concludes;

25 (5) the department must render the environmental
26 decision on any reevaluation not later than the 120th day after the
27 date the supporting documentation is received by the department;

1 and

2 (6) for a project that requires the preparation of an
3 environmental impact statement, the department shall render the
4 environmental decision not later than the 120th day after the date
5 the draft final environmental impact statement is submitted.

6 (b) Review deadlines under this section specify the date by
7 which the department will render the environmental decision on a
8 project or the time frames by which the department will make a
9 recommendation to the Federal Highway Administration, as
10 applicable.

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

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

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

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

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

26 Sec. 201.761. AGREEMENT BETWEEN LOCAL GOVERNMENT SPONSOR
27 AND DEPARTMENT. Notwithstanding any provision of this subchapter

1 or any other law, a local government sponsor and the department may
2 enter into an agreement that defines the relative roles and
3 responsibilities of the parties in the preparation and review of
4 environmental review documents for a specific project. For a
5 project for which an environmental decision requires the approval
6 of the Federal Highway Administration and to the extent otherwise
7 permitted by law, the Federal Highway Administration may also be a
8 party to an agreement between a local government sponsor and the
9 department under this section.

10 Sec. 201.762. REPORTS TO COMMISSION AND LEGISLATURE.

11 (a) Not later than June 30 and December 31 of each year, the
12 department shall submit a report to the commission at a regularly
13 scheduled commission meeting identifying projects being processed
14 under the procedures of this subchapter and the status of each
15 project, including:

16 (1) how the project was classified for environmental
17 review;

18 (2) the current status of the environmental review;

19 (3) the date on which the department is required to
20 make an environmental decision under applicable deadlines;

21 (4) an explanation of any delays; and

22 (5) any deadline under Section 201.759 missed by the
23 department.

24 (b) Not later than December 1 of each year, the department
25 shall submit a report to the members of the standing legislative
26 committees with primary jurisdiction over matters related to
27 transportation regarding the implementation of this subchapter,

1 including a status report for the preceding 12-month period that
2 contains the information described in Subsection (a).

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

8 (d) The department shall make available on its Internet
9 website and update regularly the status of projects being processed
10 under this subchapter.

11 (b) The Texas Transportation Commission shall adopt rules
12 to implement Subchapter I-1, Chapter 201, Transportation Code, as
13 added by this section, not later than March 1, 2012.

14 (c) Subchapter I-1, Chapter 201, Transportation Code, as
15 added by this section, applies only to a notice of a local
16 government sponsor proposing the sponsor's preparation of an
17 environmental review document that is received by the Texas
18 Department of Transportation on or after the effective date of this
19 Act. Submissions to the Texas Department of Transportation
20 received before the effective date of this Act are governed by the
21 law in effect on the date the submission was received, and that law
22 is continued in effect for that purpose.

23 SECTION 22. (a) Section 201.801, Transportation Code, is
24 amended to read as follows:

25 Sec. 201.801. [~~INFORMATION ABOUT DEPARTMENT,~~] COMPLAINTS.
26 (a) The department shall maintain a system to promptly and
27 efficiently act on complaints filed with the department. The

1 department shall maintain information about the parties to and the
2 subject matter of a complaint and a summary of the results of the
3 review or investigation of the complaint and the disposition of the
4 complaint.

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

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

17 [~~(1) on each registration form, application, or~~
18 ~~written contract for services of an individual or entity regulated~~
19 ~~by the department,~~

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

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

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

26 [~~(1) keep an information file about each written~~
27 ~~complaint filed with the department that the department has the~~

1 ~~authority to resolve, and~~

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

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

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

- 17 ~~[(1) the date the complaint is filed,~~
18 ~~[(2) the name of the person filing the complaint,~~
19 ~~[(3) the subject matter of the complaint,~~
20 ~~[(4) a record of each person contacted in relation to~~
21 ~~the complaint,~~
22 ~~[(5) a summary of the results of the review or~~
23 ~~investigation of the complaint, and~~
24 ~~[(6) if the department takes no action on the~~
25 ~~complaint, an explanation of the reasons that no action was taken].~~

26 (e) The department shall develop a standard form for
27 submitting a complaint and make the form available on its Internet

1 website. The department shall establish a method to submit
2 complaints electronically.

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

8 (g) The department shall:

9 (1) compile:

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

12 (i) the nature of the complaints;

13 (ii) their disposition; and

14 (iii) the length of time to resolve
15 complaints;

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

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

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

23 (b) The Texas Transportation Commission shall adopt rules
24 under Section 201.801, Transportation Code, as amended by this
25 section, not later than March 1, 2012.

26 SECTION 23. Subsection (a), Section 201.802,
27 Transportation Code, is amended to read as follows:

1 (a) The commission shall develop and implement policies
2 that provide the public with a reasonable opportunity to appear
3 before the commission and speak on any issue under the jurisdiction
4 of the department [~~commission~~].

5 SECTION 24. (a) Subchapter J, Chapter 201, Transportation
6 Code, is amended by adding Sections 201.807, 201.808, 201.809,
7 201.810, and 201.811 to read as follows:

8 Sec. 201.807. PROJECT INFORMATION REPORTING SYSTEM.

9 (a) In this section, "department project" means a highway project
10 under the jurisdiction of the department, including a grouped
11 rehabilitation and preventive maintenance project, that:

- 12 (1) is being developed or is under construction; and
13 (2) is identified in the work program required under
14 Section 201.998.

15 (b) The department shall establish a project information
16 reporting system that makes available in a central location on the
17 department's Internet website easily accessible and searchable
18 information regarding all of the department's transportation plans
19 and programs, including the unified transportation program
20 required by Section 201.991. The department shall post information
21 on its Internet website as required by this subsection as the
22 information becomes available to the department and in a manner
23 that is not cost prohibitive. The project information reporting
24 system shall contain information about:

- 25 (1) each department project, including:
26 (A) the status of the project;
27 (B) each source of funding for the project;

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

3 (D) timelines for completing the project;

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

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

9 (2) the department's funds, including each source for
10 the department's funds, and the amount and general type or purpose
11 of each expenditure as described in the comptroller's statewide
12 accounting system, reported by each:

13 (A) department district;

14 (B) program funding category as required by
15 Section 201.991(b)(2); and

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

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

20 (1) the legislature;

21 (2) local transportation entities; and

22 (3) members of the public.

23 (d) The department shall make the statistical information
24 provided under this section available on the department's Internet
25 website in more than one downloadable electronic format.

26 (e) As a component of the project information reporting
27 system required by this section, the department shall conduct an

1 annual review of the benchmarks and timelines of each project
2 included in the department's transportation plans, including the
3 unified transportation program, to determine the completion rates
4 of the projects and whether the projects were completed on time.

5 (f) The department shall update the information contained
6 in the project information reporting system on a regular basis, as
7 specified by commission rule.

8 Sec. 201.808. TRANSPORTATION EXPENDITURE PRIORITIES.

9 (a) The department shall develop a process to identify and
10 distinguish between the transportation projects that are required
11 to maintain the state infrastructure and the transportation
12 projects that would improve the state infrastructure in a manner
13 consistent with the statewide transportation plan required by
14 Section 201.601.

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

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

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

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

1 including the percentage of pavement that the department determines
2 to be in good or better condition;

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

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

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

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

14 (e) The department shall establish criteria to prioritize
15 the transportation needs for the state that are consistent with the
16 statewide transportation plan.

17 (f) Each department district shall enter information into
18 the transportation expenditure reporting system, including
19 information about:

20 (1) each district transportation project; and

21 (2) the category to which the project has been
22 assigned and the priority of the project in the category under
23 Section 201.995.

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

27 (h) To provide a means of verifying the accuracy of

1 information being made available through the transportation
2 expenditure reporting system, the department shall retain and
3 archive appropriate documentation supporting the expenditure
4 information or data summary that is detailed in the reporting
5 system, by archiving copies of the original supporting
6 documentation in a digital, electronic, or other appropriate format
7 of storage or imaging that allows departmental management and
8 retrieval of the records. Supporting documentation may include
9 contract or transactional documents, letter agreements, invoices,
10 statements, payment vouchers, requests for object of expenditure
11 payments to be made by or on behalf of the department, and other
12 items establishing the purpose and payment of the expenditure. The
13 documentation shall be retained for the applicable period as set
14 forth in rules for records retention and destruction promulgated by
15 the Texas State Library and Archives Commission.

16 Sec. 201.809. STATEWIDE TRANSPORTATION REPORT. (a) The
17 department annually shall evaluate and publish a report about the
18 status of each transportation goal for this state. The report must
19 include:

20 (1) information about the progress of each long-term
21 transportation goal that is identified by the statewide
22 transportation plan;

23 (2) the status of each project identified as a major
24 priority;

25 (3) a summary of the number of statewide project
26 implementation benchmarks that have been completed; and

27 (4) information about the accuracy of previous

1 department financial forecasts.

2 (b) The department shall disaggregate the information in
3 the report by department district.

4 (c) The department shall provide a copy of the district
5 report to each member of the legislature for each department
6 district located in the member's legislative district, and at the
7 request of a member, a department employee shall meet with the
8 member to explain the report.

9 (d) The department shall provide a copy of each district
10 report to the political subdivisions located in the department
11 district that is the subject of the report, including:

12 (1) a municipality;

13 (2) a county; and

14 (3) a local transportation entity.

15 Sec. 201.810. DEPARTMENT INFORMATION CONSOLIDATION.

16 (a) To the extent practicable and to avoid duplication of
17 reporting requirements, the department may combine the reports
18 required under this subchapter with reports required under other
19 provisions of this code.

20 (b) The department shall develop a central location on the
21 department's Internet website that provides easily accessible and
22 searchable information to the public contained in the reports
23 required under this subchapter and other provisions of this code.

24 Sec. 201.811. PUBLIC INVOLVEMENT POLICY. (a) The

25 department shall develop and implement a policy for public
26 involvement that guides and encourages public involvement with the
27 department. The policy must:

- 1 (1) provide for the use of public involvement
2 techniques that target different groups and individuals;
- 3 (2) encourage continuous contact between the
4 department and persons outside the department throughout the
5 transportation decision-making process;
- 6 (3) require the department to make efforts toward:
- 7 (A) clearly tying public involvement to
8 decisions made by the department; and
- 9 (B) providing clear information to the public
10 about specific outcomes of public input;
- 11 (4) apply to all public input with the department,
12 including input:
- 13 (A) on statewide transportation policy-making;
14 (B) in connection with the environmental process
15 relating to specific projects; and
- 16 (C) into the commission's rulemaking procedures;
17 and
- 18 (5) require a person who makes or submits a public
19 comment, at the time the comment is made or disclosed, to disclose
20 in writing on a witness card whether the person:
- 21 (A) does business with the department;
22 (B) may benefit monetarily from a project; or
23 (C) is an employee of the department.
- 24 (b) The department shall document the number of positive,
25 negative, or neutral public comments received regarding all
26 environmental impact statements as expressed by the public through
27 the department's public involvement process. The department shall:

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

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

5 (b) Not later than September 1, 2011, the Texas Department
6 of Transportation shall establish the central location on the
7 department's Internet website required by Section 201.810,
8 Transportation Code, as added by this section.

9 SECTION 25. Chapter 201, Transportation Code, is amended by
10 adding Subchapter P to read as follows:

11 SUBCHAPTER P. UNIFIED TRANSPORTATION PROGRAM

12 Sec. 201.991. UNIFIED TRANSPORTATION PROGRAM. (a) The
13 department shall develop a unified transportation program covering
14 a period of 10 years to guide the development of and authorize
15 construction of transportation projects. The program must:

16 (1) annually identify target funding levels; and

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

19 (b) The commission shall adopt rules that:

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

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

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

27 (c) The department shall publish the entire unified

1 transportation program and summary documents highlighting project
2 benchmarks, priorities, and forecasts in appropriate media and on
3 the department's Internet website in a format that is easily
4 understandable by the public.

5 (d) In developing the rules required by this section, the
6 commission shall collaborate with local transportation entities.

7 Sec. 201.992. ANNUAL UPDATE TO UNIFIED TRANSPORTATION
8 PROGRAM. (a) The department shall annually update the unified
9 transportation program.

10 (b) The annual update must include:

11 (1) the annual funding forecast required by Section
12 201.993;

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

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

18 (c) The department shall collaborate with local
19 transportation entities to develop the annual update to the unified
20 transportation program.

21 Sec. 201.993. ANNUAL FUNDING AND CASH FLOW FORECASTS.

22 (a) The department annually shall:

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

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

1 (b) The department shall collaborate with local
2 transportation entities to develop scenarios for the forecast
3 required by Subsection (a) based on mutually acceptable funding
4 assumptions.

5 (c) Not later than September 1 of each year, the department
6 shall prepare and publish a cash flow forecast for a period of 20
7 years.

8 Sec. 201.994. MAJOR TRANSPORTATION PROJECTS. (a) The
9 commission by rule shall:

10 (1) establish criteria for designating a project as a
11 major transportation project;

12 (2) develop benchmarks for evaluating the progress of
13 a major transportation project and timelines for implementation and
14 construction of a major transportation project; and

15 (3) determine which critical benchmarks must be met
16 before a major transportation project may enter the implementation
17 phase of the unified transportation program.

18 (b) The department annually shall update the list of
19 projects that are designated as major transportation projects.

20 (c) In adopting rules required by this section, the
21 commission shall collaborate with local transportation entities.

22 Sec. 201.995. PRIORITY PROJECTS IN PROGRAM CATEGORIES.

23 (a) The commission by rule shall:

24 (1) establish categories in the unified
25 transportation program;

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

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

3 (b) The department shall collaborate with local
4 transportation entities when assigning each project included in the
5 unified transportation program to a category established under
6 Subsection (a).

7 (c) The highest priority projects within an applicable
8 category of the unified transportation program must be projects
9 designated as major transportation projects.

10 Sec. 201.996. FUNDING ALLOCATION. (a) For each funding
11 category established under Section 201.991(b)(2), the commission
12 by rule shall specify the formulas for allocating funds to
13 districts and metropolitan planning organizations for:

14 (1) preventive maintenance and rehabilitation of the
15 state highway system in all districts;

16 (2) mobility and added capacity projects in
17 metropolitan and urban areas;

18 (3) mobility and added capacity projects on major
19 state highways that provide statewide connectivity between urban
20 areas and highway system corridors;

21 (4) congestion mitigation and air quality improvement
22 projects in nonattainment areas;

23 (5) metropolitan mobility and added capacity projects
24 within the boundaries of designated metropolitan planning areas of
25 metropolitan planning organizations located in a transportation
26 management area;

27 (6) transportation enhancements project funding; and

1 (7) projects eligible for federal or state funding, as
2 determined by the applicable district engineer.

3 (b) Subject to applicable state and federal law, the
4 commission shall determine the allocation of funds in all of the
5 other categories established under Section 201.991(b)(2),
6 including a category for projects of specific importance to the
7 state, including projects that:

8 (1) promote economic opportunity;

9 (2) increase efficiency on military deployment routes
10 or that retain military assets; and

11 (3) maintain the ability of appropriate entities to
12 respond to emergencies.

13 (c) The commission shall update the formulas established
14 under this section at least every four years.

15 Sec. 201.997. FUND DISTRIBUTION. (a) The department shall
16 allocate funds to the department districts based on the formulas
17 adopted under Section 201.996.

18 (b) In distributing funds to department districts, the
19 department may not exceed the cash flow forecast prepared and
20 published under Section 201.993(c).

21 Sec. 201.998. WORK PROGRAM. (a) Each department district
22 shall develop a consistently formatted work program based on the
23 unified transportation program covering a period of four years that
24 contains all projects that the district proposes to implement
25 during that period.

26 (b) The work program must contain:

27 (1) information regarding the progress of projects

1 designated as major transportation projects, according to project
2 implementation benchmarks and timelines established under Section
3 201.994; and

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

6 (c) The department shall use the work program to:

7 (1) monitor the performance of the district; and

8 (2) evaluate the performance of district employees.

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

11 SECTION 26. Section 202.021, Transportation Code, is
12 amended by amending Subsection (e) and adding Subsection (e-1) to
13 read as follows:

14 (e) The commission may waive payment for real property
15 transferred to a governmental entity under this section if:

16 (1) the estimated cost of future maintenance on the
17 property equals or exceeds the fair value of the property; or

18 (2) the property is a highway right-of-way and the
19 governmental entity assumes or has assumed jurisdiction, control,
20 and maintenance of the right-of-way for public road purposes.

21 (e-1) A grant transferring real property under Subsection
22 (e)(2) must contain a reservation providing that if property
23 described by that subsection ceases to be used for public road
24 purposes, that real property shall immediately and automatically
25 revert to this state.

26 SECTION 27. Subchapter A, Chapter 222, Transportation Code,
27 is amended by adding Sections 222.005 and 222.006 to read as

1 follows:

2 Sec. 222.005. AUTHORIZATION TO PROVIDE ASSISTANCE TO
3 EXPEDITE ENVIRONMENTAL REVIEW. (a) The department, a county, a
4 regional tollway authority operating under Chapter 366, or a
5 regional mobility authority operating under Chapter 370 may enter
6 into an agreement to provide funds to a state or federal agency to
7 expedite the agency's performance of its duties related to the
8 environmental review process for the applicable entity's
9 transportation projects, including those listed in the applicable
10 metropolitan planning organization's long-range transportation
11 plan under 23 U.S.C. Section 134.

12 (b) Except as provided by Subsection (c), an agreement
13 entered into under this section:

14 (1) may specify transportation projects the
15 applicable entity considers to be priorities for review; and

16 (2) must require the agency receiving money to
17 complete the environmental review in less time than is customary
18 for the completion of environmental review by that agency.

19 (c) The department may enter into a separate agreement for a
20 transportation project that the department determines has regional
21 importance.

22 (d) An agreement entered into under this section does not
23 diminish or modify the rights of the public regarding review and
24 comment on transportation projects.

25 (e) An entity entering into an agreement under this section
26 shall make the agreement available on the entity's Internet
27 website.

1 Sec. 222.006. ENVIRONMENTAL REVIEW CERTIFICATION PROCESS.

2 The department by rule shall establish a process to certify
3 department district environmental specialists to work on all
4 documents related to state and federal environmental review
5 processes. The certification process must:

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

8 SECTION 28. Subsection (i), Section 222.106,
9 Transportation Code, is amended to read as follows:

10 (i) All or the portion specified by the municipality of the
11 money deposited to a tax increment account must be used to fund the
12 transportation project for which the zone was designated, as well
13 as aesthetic improvements within the zone. Any remaining money
14 deposited to the tax increment account may be used for other
15 purposes as determined by the municipality. A municipality may
16 issue bonds to pay all or part of the cost of the transportation
17 project and may pledge and assign all or a specified amount of money
18 in the tax increment account to secure repayment of those bonds.

19 ~~[Money deposited to a tax increment account must be used to fund~~
20 ~~projects authorized under Section 222.104, including the repayment~~
21 ~~of amounts owed under an agreement entered into under that~~
22 ~~section.]~~

23 SECTION 29. Section 222.107, Transportation Code, is
24 amended by amending Subsections (f) and (h) and adding Subsections
25 (h-1) and (i-1) to read as follows:

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

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

4 (2) provide that the zone takes effect immediately on
5 adoption of the order or resolution and that the base year shall be
6 the year of passage of the order or resolution or some year in the
7 future; [and]

8 (3) assign a name to the zone for identification, with
9 the first zone designated by a county designated as "Transportation
10 Reinvestment Zone Number One, County of (name of county)," and
11 subsequently designated zones assigned names in the same form
12 numbered consecutively in the order of their designation;

13 (4) designate the base year for purposes of
14 establishing the tax increment base of the county; and

15 (5) establish an ad valorem tax increment account for
16 the zone.

17 (h) The commissioners court may:

18 (1) from taxes collected on property in a zone, pay
19 into a tax increment account for the zone an amount equal to the tax
20 increment produced by the county less any amounts allocated under
21 previous agreements, including agreements under Section 381.004,
22 Local Government Code, or Chapter 312, Tax Code;

23 (2) by order or resolution [may] enter into an
24 agreement with the owner of any real property located in the
25 transportation reinvestment zone to abate all or a portion of the ad
26 valorem taxes imposed by the county on the owner's property;

27 (3) by order or resolution elect to abate all or a

1 portion of the ad valorem taxes imposed by the county on all real
2 property in a zone; or

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

5 (h-1) All abatements or other relief granted by the
6 commissioners court in a transportation reinvestment zone must be
7 equal in rate. [~~In the alternative, the commissioners court by~~
8 ~~order or resolution may elect to abate a portion of the ad valorem~~
9 ~~taxes imposed by the county on all real property located in the~~
10 ~~zone.]~~ In any ad valorem tax year, the total amount of the taxes

11 abated or the total amount of relief granted under this section may
12 not exceed the amount calculated under Subsection (a)(1) for that
13 year, less any amounts allocated under previous agreements,
14 including agreements under Section 381.004, Local Government Code,
15 or Chapter 312, Tax Code.

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

20 SECTION 30. Section 223.002, Transportation Code, is
21 amended to read as follows:

22 Sec. 223.002. NOTICE OF BIDS [~~BY PUBLICATION~~]. [~~(a)~~] The
23 department shall give [~~publish~~] notice regarding [~~of~~] the time and
24 place at which bids on a contract will be opened and the contract
25 awarded. The commission by rule shall determine the most effective
26 method for providing the notice required by this section.

27 [~~(b) The notice must be published in a newspaper published~~

1 ~~in the county in which the improvement is to be made once a week for~~
2 ~~at least two weeks before the time set for awarding the contract and~~
3 ~~in two other newspapers that the department may designate.~~

4 ~~[(c) Instead of the notice required by Subsection (b), if~~
5 ~~the department estimates that the contract involves an amount less~~
6 ~~than \$300,000, notice may be published in two successive issues of a~~
7 ~~newspaper published in the county in which the improvement is to be~~
8 ~~made.~~

9 ~~[(d) If a newspaper is not published in the county in which~~
10 ~~the improvement is to be made, notice shall be published in a~~
11 ~~newspaper published in the county:~~

12 ~~[(1) nearest the county seat of the county in which the~~
13 ~~improvement is to be made, and~~

14 ~~[(2) in which a newspaper is published.]~~

15 SECTION 31. Section 223.201, Transportation Code, is
16 amended by amending Subsections (f) and (i) and adding Subsections
17 (j), (k), (l), and (m) to read as follows:

18 (f) The department may ~~[Except as provided by Subsections~~
19 ~~(h) and (i), the authority to]~~ enter into a comprehensive
20 development agreement only for all or part of:

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

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

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

27 (A) on State Highway 183 from State Highway 121

1 to State Highway 161 (Segment 2E);
2 (B) on Interstate Highway 35W from Interstate
3 Highway 30 to State Highway 114 (Segments 3A, 3B, and 3C); and
4 (C) on Interstate Highway 820 from State Highway
5 183 North to south of Randol Mill Road (Segment 4);
6 (4) the State Highway 183 managed lanes project in
7 Dallas County from State Highway 161 to Interstate Highway 35E;
8 (5) the State Highway 249 project in Harris and
9 Montgomery Counties from Spring Cypress Road to Farm-to-Market Road
10 1774;
11 (6) the State Highway 288 project in Brazoria County
12 and Harris County; and
13 (7) the U.S. Highway 290 Hempstead managed lanes
14 project in Harris County from Interstate Highway 610 to State
15 Highway 99 [~~agreements provided by this section expires on August~~
16 ~~31, 2009~~].
17 (i) The authority to enter into a comprehensive development
18 agreement for a project described by Subsection (f), other than the
19 State Highway 99 (Grand Parkway) project [~~exempted from Subsection~~
20 ~~(f) or Section 223.210(b)~~] expires August 31, 2015 [~~2011~~].
21 (j) Before the department may enter into a comprehensive
22 development agreement under Subsection (f), the department must:
23 (1) obtain, not later than August 31, 2013, the
24 appropriate environmental clearance for any project other than the
25 State Highway 99 (Grand Parkway) project; and
26 (2) present to the commission a full financial plan
27 for the project, including costing methodology and cost proposals.

1 (k) Not later than December 1, 2012, the department shall
2 present a report to the commission on the status of a project
3 described by Subsection (f). The report must include:

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

6 (2) an explanation of any project delays; and

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

9 (l) In this section, "environmental clearance" means:

10 (1) a finding of no significant impact has been issued
11 for the project; or

12 (2) for a project for which an environmental impact
13 statement is prepared, a record of decision has been issued for that
14 project.

15 (m) The department may not develop a project under this
16 section as a project under Chapter 227.

17 SECTION 32. Subchapter E, Chapter 223, Transportation Code,
18 is amended by adding Sections 223.2011 and 223.2012 to read as
19 follows:

20 Sec. 223.2011. LIMITED AUTHORITY FOR CERTAIN PROJECTS USING
21 COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) Notwithstanding
22 Sections 223.201(f) and 370.305(c), the department or an authority
23 under Section 370.003 may enter into a comprehensive development
24 agreement relating to improvements to, or construction of:

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

27 (2) the U.S. 183 (Bergstrom Expressway) project from

1 Springdale Road to Patton Avenue; or

2 (3) a project consisting of the construction of:

3 (A) the Outer Parkway Project from U.S. Highway
4 77/83 to Farm-to-Market Road 1847; and

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

7 (b) Before the department or an authority may enter into a
8 comprehensive development agreement under this section, the
9 department or the authority, as applicable, must meet the
10 requirements under Section 223.201(j).

11 (c) Not later than December 1, 2012, the department or the
12 authority, as applicable, shall present a report to the commission
13 on the status of a project described by Subsection (a). The report
14 must include:

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

17 (2) an explanation of any project delays; and

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

20 (d) The department may not provide any financial assistance
21 to an authority to pay for the costs of procuring an agreement under
22 this section.

23 (e) In this section, "environmental clearance" means:

24 (1) a finding of no significant impact has been issued
25 for the project; or

26 (2) for a project for which an environmental impact
27 statement is prepared, a record of decision has been issued for that

1 project.

2 (f) The authority to enter into a comprehensive development
3 agreement under this section expires August 31, 2015.

4 Sec. 223.2012. NORTH TARRANT EXPRESS PROJECT PROVISIONS.

5 (a) In this section, the North Tarrant Express project is the
6 project described by Section 223.201(f)(3) entered into on June 23,
7 2009.

8 (b) The comprehensive development agreement for the North
9 Tarrant Express project may provide for negotiating and entering
10 into facility agreements for future phases or segments of the
11 project at the times that the department considers advantageous to
12 the department.

13 (c) The department is not required to use any further
14 competitive procurement process to enter into one or more related
15 facility agreements with the developer or an entity controlled by,
16 to be controlled by, or to be under common control with the
17 developer under the comprehensive development agreement for the
18 North Tarrant Express project.

19 (d) A facility agreement for the North Tarrant Express
20 project must terminate on or before June 22, 2061. A facility
21 agreement may not be extended or renewed beyond that date.

22 (e) The department may include or negotiate any matter in a
23 comprehensive development agreement for the North Tarrant Express
24 project that the department considers advantageous to the
25 department.

26 (f) The comprehensive development agreement for the North
27 Tarrant Express project may provide the developer or an entity

1 controlled by, to be controlled by, or to be under common control
2 with the developer with a right of first negotiation under which the
3 developer may elect to negotiate with the department and enter into
4 one or more related facility agreements for future phases or
5 segments of the project.

6 SECTION 33. Section 223.203, Transportation Code, is
7 amended by adding Subsections (f-2), (l-1), (l-2), and (p) and
8 amending Subsection (g) to read as follows:

9 (f-2) A private entity responding to a request for detailed
10 proposals issued under Subsection (f) must identify:

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

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

17 (g) In issuing a request for detailed proposals under
18 Subsection (f), the department may solicit input from entities
19 qualified under Subsection (e) or any other person. The department
20 may also solicit input regarding alternative technical concepts
21 after issuing a request under Subsection (f). A technical solution
22 presented with a proposal must be fully responsive to, and have
23 demonstrated resources to be able to fulfill, all technical
24 requirements for the project, including specified quality
25 assurance and quality control program requirements, safety program
26 requirements, and environmental program requirements. A proposal
27 that includes a technical solution that does not meet those

1 requirements is ineligible for further consideration.

2 (1-1) A private entity selected for a comprehensive
3 development agreement may not make changes to the companies or
4 entities identified under Subsection (f-2) unless the original
5 company or entity:

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

9 (2) voluntarily removes itself from the team;

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

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

16 (1-2) If the private entity makes team changes in violation
17 of Subsection (1-1), any cost savings resulting from the change
18 accrue to the state and not to the private entity.

19 (p) All teaming agreements and subconsultant agreements
20 must be executed and provided to the department before the
21 execution of the comprehensive development agreement.

22 SECTION 34. Chapter 223, Transportation Code, is amended by
23 adding Subchapter F to read as follows:

24 SUBCHAPTER F. DESIGN-BUILD CONTRACTS

25 Sec. 223.241. DEFINITIONS. In this subchapter:

26 (1) "Design-build contractor" means a partnership,
27 corporation, or other legal entity or team that includes an

1 engineering firm and a construction contractor qualified to engage
2 in the construction of highway projects in this state.

3 (2) "Design-build method" means a project delivery
4 method by which an entity contracts with a single entity to provide
5 both design and construction services for the construction,
6 rehabilitation, alteration, or repair of a facility.

7 Sec. 223.242. SCOPE OF AND LIMITATIONS ON CONTRACTS.

8 (a) Notwithstanding the requirements of Subchapter A and Chapter
9 2254, Government Code, the department may use the design-build
10 method for the design, construction, expansion, extension, related
11 capital maintenance, rehabilitation, alteration, or repair of a
12 highway project.

13 (b) A design-build contract under this subchapter may not
14 grant to a private entity:

15 (1) a leasehold interest in the highway project; or

16 (2) the right to operate or retain revenue from the
17 operation of a toll project.

18 (c) In using the design-build method and in entering into a
19 contract for the services of a design-build contractor, the
20 department and the design-build contractor shall follow the
21 procedures and requirements of this subchapter.

22 (d) The department may enter into a design-build contract
23 for a highway project with a construction cost estimate of \$50
24 million or more to the department.

25 (d-1) The department may not enter into more than three
26 contracts under this section in each fiscal year. This subsection
27 expires August 31, 2015.

1 (e) Money disbursed by the department to pay engineering
2 costs for the design of a project incurred by the design-build
3 contractor under a design-build contract may not be included in the
4 amounts under Section 223.041:

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

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

10 Sec. 223.243. USE OF ENGINEER OR ENGINEERING FIRM. (a) To
11 act as the department's representative, independent of a
12 design-build contractor, for the procurement process and for the
13 duration of the work on a highway project, the department shall
14 select or designate:

15 (1) an engineer;

16 (2) a qualified firm, selected in accordance with
17 Section 2254.004, Government Code, who is independent of the
18 design-build contractor; or

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

22 (b) The selected or designated engineer or firm has full
23 responsibility for complying with Chapter 1001, Occupations Code.

24 Sec. 223.244. OTHER PROFESSIONAL SERVICES. (a) The
25 department shall provide or contract for, independently of the
26 design-build contractor, the following services as necessary for
27 the acceptance of the highway project by the department:

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

5 (b) The department shall ensure that the engineering
6 services contracted for under this section are selected based on
7 demonstrated competence and qualifications.

8 (c) This section does not preclude a design-build
9 contractor from providing construction quality assurance and
10 quality control under a design-build contract.

11 Sec. 223.245. REQUEST FOR QUALIFICATIONS. (a) For any
12 highway project to be delivered through the design-build method,
13 the department must prepare and issue a request for qualifications.
14 A request for qualifications must include:

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

17 (2) information regarding funding that may be
18 available for the project;

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

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

24 and

25 (5) the deadline by which qualifications statements
26 must be received by the department.

27 (b) The department shall publish notice advertising the

1 issuance of a request for qualifications in the Texas Register and
2 on the department's Internet website.

3 (c) The department shall evaluate each qualifications
4 statement received in response to a request for qualifications
5 based on the criteria identified in the request. The department may
6 interview responding proposers. Based on the department's
7 evaluation of qualifications statements and interviews, if any, the
8 department shall qualify or short-list proposers to submit
9 proposals.

10 (d) The department shall qualify or short-list at least two
11 private entities to submit proposals under Section 223.246, but may
12 not qualify or short-list more private entities than the number of
13 private entities designated on the request for qualifications.

14 (e) The department may withdraw a request for
15 qualifications or request for proposals at any time.

16 Sec. 223.246. REQUEST FOR PROPOSALS. (a) The department
17 shall issue a request for proposals to proposers short-listed under
18 Section 223.245. A request for proposals must include:

- 19 (1) information on the overall project goals;
20 (2) publicly available cost estimates for the
21 design-build portion of the project;
22 (3) materials specifications;
23 (4) special material requirements;
24 (5) a schematic design approximately 30 percent
25 complete;
26 (6) known utilities, provided that the department is
27 not required to undertake an effort to locate utilities;

- 1 (7) quality assurance and quality control
2 requirements;
- 3 (8) the location of relevant structures;
- 4 (9) notice of any rules or goals adopted by the
5 department relating to awarding contracts to disadvantaged
6 business enterprises or small business enterprises;
- 7 (10) available geotechnical or other information
8 related to the project;
- 9 (11) the status of any environmental review of the
10 project;
- 11 (12) detailed instructions for preparing the
12 technical proposal required under Subsection (d), including a
13 description of the form and level of completeness of drawings
14 expected;
- 15 (13) the relative weighting of the technical and cost
16 proposals required under Subsection (d) and the formula by which
17 the proposals will be evaluated and ranked; and
- 18 (14) the criteria to be used in evaluating the
19 technical proposals, and the relative weighting of those criteria.
- 20 (b) The formula used to evaluate proposals under Subsection
21 (a)(13) must allocate at least 70 percent of the weighting to the
22 cost proposal.
- 23 (c) A request for proposals must also include a general form
24 of the design-build contract that the department proposes and that
25 may be modified as a result of negotiations prior to contract
26 execution.
- 27 (d) Each response to a request for proposals must include a

1 sealed technical proposal and a separate sealed cost proposal
2 submitted to the department by the date specified in the request for
3 proposals.

4 (e) The technical proposal must address:

5 (1) the proposer's qualifications and demonstrated
6 technical competence, unless that information was submitted to the
7 department and evaluated by the department under Section 223.245;

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

10 (3) the proposed solutions to anticipated problems;

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

12 (5) the conceptual engineering design proposed; and

13 (6) any other information requested by the department.

14 (f) The department may provide for the submission of
15 alternative technical concepts by a proposer. If the department
16 provides for the submission of alternative technical concepts, the
17 department must prescribe a process for notifying a proposer
18 whether the proposer's alternative technical concepts are approved
19 for inclusion in a technical proposal.

20 (g) The cost proposal must include:

21 (1) the cost of delivering the project; and

22 (2) the estimated number of days required to complete
23 the project.

24 (h) A response to a request for proposals shall be due not
25 later than the 180th day after the final request for proposals is
26 issued by the department. This subsection does not preclude the
27 release by the department of a draft request for proposals for

1 purposes of receiving input from short-listed proposers.

2 (i) The department shall first open, evaluate, and score
3 each responsive technical proposal submitted on the basis of the
4 criteria described in the request for proposals and assign points
5 on the basis of the weighting specified in the request for
6 proposals. The department may reject as nonresponsive any proposer
7 that makes a significant change to the composition of its
8 design-build team as initially submitted that was not approved by
9 the department as provided in the request for proposals. The
10 department shall subsequently open, evaluate, and score the cost
11 proposals from proposers that submitted a responsive technical
12 proposal and assign points on the basis of the weighting specified
13 in the request for proposals. The department shall rank the
14 proposers in accordance with the formula provided in the request
15 for proposals.

16 (j) If the department receives only one response to a
17 request for proposals, an independent bid evaluation by the
18 department must confirm and validate that:

19 (1) the project procurement delivered value for the
20 public investment; and

21 (2) no anticompetitive practices were involved in the
22 procurement.

23 Sec. 223.247. NEGOTIATION. (a) After ranking the
24 proposers under Section 223.246(i), the department shall first
25 attempt to negotiate a contract with the highest-ranked proposer.
26 The department may include in the negotiations alternative
27 technical concepts proposed by other proposers, subject to Section

1 223.249.

2 (b) If the department is unable to negotiate a satisfactory
3 contract with the highest-ranked proposer, the department shall,
4 formally and in writing, end all negotiations with that proposer
5 and proceed to negotiate with the next proposer in the order of the
6 selection ranking until a contract is reached or negotiations with
7 all ranked proposers end.

8 Sec. 223.248. ASSUMPTION OF RISKS AND COSTS. (a) Except
9 as provided by Subsection (b), the department shall assume:

10 (1) all risks and costs associated with:

11 (A) changes and modifications to the scope of the
12 project requested by the department;

13 (B) unknown or differing conditions at the site
14 of the project;

15 (C) applicable environmental clearance and other
16 regulatory permitting necessary for the project; and

17 (D) natural disasters and other force majeure
18 events; and

19 (2) all costs associated with property acquisition,
20 other than costs associated with acquiring a temporary easement or
21 work area used for staging or constructing the project.

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

26 Sec. 223.249. STIPEND AMOUNT FOR UNSUCCESSFUL PROPOSERS.

27 (a) The department shall pay an unsuccessful proposer that submits

1 a responsive proposal a stipend for the work product contained in
2 the proposal that the department determines can be used by the
3 department in the performance of the department's functions. The
4 stipend must be a minimum of twenty-five hundredths of one percent
5 of the contract amount and must be specified in the initial request
6 for proposals, but may not exceed the value of the work product
7 contained in the proposal that the department determines can be
8 used by the department in the performance of the department's
9 functions. If the department determines that the value of the work
10 product is less than the stipend amount, the department shall
11 provide the proposer with a detailed explanation of the valuation,
12 including the methodology and assumptions used by the department in
13 determining the value of the work product. After payment of the
14 stipend, the department may make use of any work product contained
15 in the unsuccessful proposal, including the techniques, methods,
16 processes, and information contained in the proposal. The use by
17 the department of any design element contained in an unsuccessful
18 proposal is at the sole risk and discretion of the department and
19 does not confer liability on the recipient of the stipend under this
20 subsection.

21 (b) In a request for proposals, the department shall provide
22 for the payment of a partial stipend in the event that a procurement
23 is terminated before the execution of a design-build contract.

24 Sec. 223.250. PERFORMANCE OR PAYMENT BOND. (a) The
25 department shall require a design-build contractor to provide:

- 26 (1) a performance and payment bond;
27 (2) an alternative form of security; or

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

3 (b) Except as provided by Subsection (c), a performance and
4 payment bond, alternative form of security, or combination of the
5 forms shall be in an amount equal to the cost of constructing or
6 maintaining the project.

7 (c) If the department determines that it is impracticable
8 for a private entity to provide security in the amount described by
9 Subsection (b), the department shall set the amount of the
10 security.

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

14 (e) The department may require one or more of the following
15 alternative forms of security:

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

18 (2) a United States bond or note;

19 (3) an irrevocable bank letter of credit provided by a
20 bank meeting the requirements specified in the request for
21 proposals; or

22 (4) any other form of security determined suitable by
23 the department.

24 (f) Section 223.006 of this code and Chapter 2253,
25 Government Code, do not apply to a bond or alternative form of
26 security required under this section.

27 SECTION 35. Subsection (b), Section 228.012,

1 Transportation Code, is amended to read as follows:

2 (b) The department shall hold money in a subaccount in trust
3 for the benefit of the region in which a project or system is
4 located and may assign the responsibility for allocating money in a
5 subaccount to a metropolitan planning organization in which the
6 region is located for projects approved by the department. Except
7 as provided by Subsection (c), at the time the project is approved
8 by the department money shall be allocated and distributed to
9 projects authorized by Section 228.0055 or Section 228.006, as
10 applicable.

11 SECTION 36. Subchapter A, Chapter 228, Transportation Code,
12 is amended by adding Section 228.013 to read as follows:

13 Sec. 228.013. DETERMINATION OF FINANCIAL TERMS FOR CERTAIN
14 TOLL PROJECTS. (a) This section applies only to a proposed
15 department toll project in which a private entity has a financial
16 interest in the project's performance and for which:

17 (1) funds dedicated to or controlled by a region will
18 be used;

19 (2) right-of-way is provided by a municipality or
20 county; or

21 (3) revenues dedicated to or controlled by a
22 municipality or county will be used.

23 (b) The distribution of a project's financial risk, the
24 method of financing for a project, and the tolling structure and
25 methodology must be determined by a committee consisting of the
26 following members:

27 (1) a representative of the department;

1 (2) a representative of any local toll project entity,
2 as defined by Section 371.001, for the area in which the project is
3 located;

4 (3) a representative of the applicable metropolitan
5 planning organization; and

6 (4) a representative of each municipality or county
7 that has provided revenue or right-of-way as described by
8 Subsection (a).

9 SECTION 37. Section 370.305, Transportation Code, is
10 amended to read as follows:

11 Sec. 370.305. COMPREHENSIVE DEVELOPMENT AGREEMENTS.

12 (a) ~~[An authority may use a comprehensive development agreement~~
13 ~~with a private entity to construct, maintain, repair, operate,~~
14 ~~extend, or expand a transportation project.~~

15 ~~[(b)]~~ A comprehensive development agreement is an agreement
16 with a private entity that, at a minimum, provides for the design
17 and construction of a transportation project, that ~~[and]~~ may ~~[also]~~
18 provide for the financing, acquisition, maintenance, or operation
19 of a transportation project, and that entitles the private entity
20 to:

21 (1) a leasehold interest in the transportation
22 project; or

23 (2) the right to operate or retain revenue from the
24 operation of the transportation project.

25 (b) ~~[(c)]~~ An authority may negotiate provisions relating to
26 professional and consulting services provided in connection with a
27 comprehensive development agreement.

1 (c) [~~(d)~~] Except as provided by this chapter, an
2 authority's [~~Subsections (e) and (f), the~~] authority to enter into
3 a comprehensive development agreement [~~agreements under this~~
4 ~~section~~] expires on August 31, 2011 [~~2009~~].

5 [~~(e) Subsection (d) does not apply to a comprehensive~~
6 ~~development agreement that does not grant a private entity a right~~
7 ~~to finance a toll project or a comprehensive development agreement~~
8 ~~in connection with a project.~~

9 [~~(1) that includes one or more managed lane facilities~~
10 ~~to be added to an existing controlled-access highway;~~

11 [~~(2) the major portion of which is located in a~~
12 ~~nonattainment or near-nonattainment air quality area as designated~~
13 ~~by the United States Environmental Protection Agency; and~~

14 [~~(3) for which the department has issued a request for~~
15 ~~qualifications before the effective date of this subsection.~~

16 [~~(f) The authority to enter into a comprehensive~~
17 ~~development agreement for a project exempted from Subsection (d) or~~
18 ~~Section 223.210(b) expires August 31, 2011.]~~

19 SECTION 38. Chapter 370, Transportation Code, is amended by
20 adding Subchapter K to read as follows:

21 SUBCHAPTER K. DESIGN-BUILD CONTRACTS

22 Sec. 370.401. SCOPE OF AND LIMITATIONS ON CONTRACTS.

23 (a) Notwithstanding the requirements of Chapter 2254, Government
24 Code, an authority may use the design-build method for the design,
25 construction, financing, expansion, extension, related capital
26 maintenance, rehabilitation, alteration, or repair of a
27 transportation project.

1 (b) A design-build contract under this subchapter may not
2 grant to a private entity:

3 (1) a leasehold interest in the transportation
4 project; or

5 (2) the right to operate or retain revenue from the
6 operation of the transportation project.

7 (c) In using the design-build method and in entering into a
8 contract for the services of a design-build contractor, the
9 authority and the design-build contractor shall follow the
10 procedures and requirements of this subchapter.

11 (d) An authority may enter into not more than two
12 design-build contracts for transportation projects in any fiscal
13 year.

14 Sec. 370.402. DEFINITIONS. In this subchapter:

15 (1) "Design-build contractor" means a partnership,
16 corporation, or other legal entity or team that includes an
17 engineering firm and a construction contractor qualified to engage
18 in the construction of transportation projects in this state.

19 (2) "Design-build method" means a project delivery
20 method by which an entity contracts with a single entity to provide
21 both design and construction services for the construction,
22 rehabilitation, alteration, or repair of a facility.

23 Sec. 370.403. USE OF ENGINEER OR ENGINEERING FIRM. (a) To
24 act as an authority's representative, independent of a design-build
25 contractor, for the procurement process and for the duration of the
26 work on a transportation project, an authority shall select or
27 designate:

1 (1) an engineer;

2 (2) a qualified firm, selected in accordance with
3 Section 2254.004, Government Code, that is independent of the
4 design-build contractor; or

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

8 (b) The selected or designated engineer or firm has full
9 responsibility for complying with Chapter 1001, Occupations Code.

10 Sec. 370.404. OTHER PROFESSIONAL SERVICES. (a) An
11 authority shall provide or contract for, independently of the
12 design-build firm, the following services as necessary for the
13 acceptance of the transportation project by the authority:

14 (1) inspection services;

15 (2) construction materials engineering and testing;

16 and

17 (3) verification testing services.

18 (b) An authority shall ensure that the engineering services
19 contracted for under this section are selected based on
20 demonstrated competence and qualifications.

21 (c) This section does not preclude the design-build
22 contractor from providing construction quality assurance and
23 quality control under a design-build contract.

24 Sec. 370.405. REQUEST FOR QUALIFICATIONS. (a) For any
25 transportation project to be delivered through the design-build
26 method, an authority must prepare and issue a request for
27 qualifications. A request for qualifications must include:

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

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

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

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

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

14 (b) An authority shall publish notice advertising the
15 issuance of a request for qualifications in the Texas Register and
16 on an Internet website maintained by the authority.

17 (c) An authority shall evaluate each qualifications
18 statement received in response to a request for qualifications
19 based on the criteria identified in the request. An authority may
20 interview responding proposers. Based on the authority's
21 evaluation of qualifications statements and interviews, if any, an
22 authority shall qualify or short-list proposers to submit detailed
23 proposals.

24 (d) An authority shall qualify or short-list at least two,
25 but no more than five, firms to submit detailed proposals under
26 Section 370.406. If an authority receives only one responsive
27 proposal to a request for qualifications, the authority shall

1 terminate the procurement.

2 (e) An authority may withdraw a request for qualifications
3 or request for detailed proposals at any time.

4 Sec. 370.406. REQUEST FOR DETAILED PROPOSALS. (a) An
5 authority shall issue a request for detailed proposals to proposers
6 qualified or short-listed under Section 370.405. A request for
7 detailed proposals must include:

8 (1) information on the overall project goals;

9 (2) the authority's cost estimates for the
10 design-build portion of the work;

11 (3) materials specifications;

12 (4) special material requirements;

13 (5) a schematic design approximately 30 percent
14 complete;

15 (6) known utilities, provided that an authority is not
16 required to undertake an effort to locate utilities;

17 (7) quality assurance and quality control
18 requirements;

19 (8) the location of relevant structures;

20 (9) notice of any rules or goals adopted by the
21 authority pursuant to Section 370.183 relating to awarding
22 contracts to disadvantaged businesses;

23 (10) available geotechnical or other information
24 related to the project;

25 (11) the status of any environmental review of the
26 project;

27 (12) detailed instructions for preparing the

1 technical proposal required under Subsection (c), including a
2 description of the form and level of completeness of drawings
3 expected;

4 (13) the relative weighting of the technical and cost
5 proposals required under Subsection (c) and the formula by which
6 the proposals will be evaluated and ranked, provided that the
7 formula shall allocate at least 70 percent of the weighting to the
8 cost proposal; and

9 (14) the criteria and weighting for each element of
10 the technical proposal.

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

15 (c) Each response to a request for detailed proposals must
16 include a sealed technical proposal and a separate sealed cost
17 proposal.

18 (d) The technical proposal must address:

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

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

25 (3) the proposed solutions to anticipated problems;

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

27 (5) the conceptual engineering design proposed; and

1 (6) any other information requested by the authority.

2 (e) An authority may provide for the submission of
3 alternative technical concepts by a proposer. If an authority
4 provides for the submission of alternative technical concepts, the
5 authority must prescribe a process for notifying a proposer whether
6 the proposer's alternative technical concepts are approved for
7 inclusion in a technical proposal.

8 (f) The cost proposal must include:

- 9 (1) the cost of delivering the project;
10 (2) the estimated number of days required to complete
11 the project; and
12 (3) any terms for financing for the project that the
13 proposer plans to provide.

14 (g) A response to a request for detailed proposals shall be
15 due not later than the 180th day after the final request for
16 detailed proposals is issued by the authority. This subsection
17 does not preclude the release by the authority of a draft request
18 for detailed proposals for purposes of receiving input from
19 short-listed proposers.

20 (h) An authority shall first open, evaluate, and score each
21 responsive technical proposal submitted on the basis of the
22 criteria described in the request for detailed proposals and assign
23 points on the basis of the weighting specified in the request for
24 detailed proposals. The authority may reject as nonresponsive any
25 proposer that makes a significant change to the composition of its
26 design-build team as initially submitted that was not approved by
27 the authority as provided in the request for detailed proposals.

1 The authority shall subsequently open, evaluate, and score the cost
2 proposals from proposers that submitted a responsive technical
3 proposal and assign points on the basis of the weighting specified
4 in the request for detailed proposals. The authority shall rank the
5 proposers in accordance with the formula provided in the request
6 for detailed proposals.

7 Sec. 370.407. NEGOTIATION. (a) After ranking the
8 proposers under Section 370.406(h), an authority shall first
9 attempt to negotiate a contract with the highest-ranked proposer.
10 If an authority has committed to paying a stipend to unsuccessful
11 proposers in accordance with Section 370.409, an authority may
12 include in the negotiations alternative technical concepts
13 proposed by other proposers.

14 (b) If an authority is unable to negotiate a satisfactory
15 contract with the highest-ranked proposer, the authority shall,
16 formally and in writing, end all negotiations with that proposer
17 and proceed to negotiate with the next proposer in the order of the
18 selection ranking until a contract is reached or negotiations with
19 all ranked proposers end.

20 Sec. 370.408. ASSUMPTION OF RISKS. (a) Unless otherwise
21 provided in the final request for detailed proposals, including all
22 addenda and supplements to that request, the authority shall
23 assume:

24 (1) all risks and costs associated with:

25 (A) scope changes and modifications, as
26 requested by the authority;

27 (B) unknown or differing site conditions;

1 (C) environmental clearance and other regulatory
2 permitting for the project; and

3 (D) natural disasters and other force majeure
4 events; and

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

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

13 Sec. 370.409. STIPEND AMOUNT FOR UNSUCCESSFUL PROPOSERS.

14 (a) Pursuant to the provisions of the request for detailed
15 proposals, an authority shall pay an unsuccessful proposer that
16 submits a responsive proposal to the request for detailed proposals
17 a stipend for work product contained in the proposal. The stipend
18 must be specified in the initial request for detailed proposals in
19 an amount of at least two-tenths of one percent of the contract
20 amount, but may not exceed the value of the work product contained
21 in the proposal to the authority. In the event the authority
22 determines that the value of the work product is less than the
23 stipend amount, the authority must provide the proposer with a
24 detailed explanation of the valuation, including the methodology
25 and assumptions used in determining value. After payment of the
26 stipend, the authority may make use of any work product contained in
27 the unsuccessful proposal, including the techniques, methods,

1 processes, and information contained in the proposal. The use by
2 the authority of any design element contained in an unsuccessful
3 proposal is at the sole risk and discretion of the authority and
4 does not confer liability on the recipient of the stipend under this
5 subsection.

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

10 Sec. 370.410. PERFORMANCE AND PAYMENT BOND. (a) An
11 authority shall require a design-build contractor to provide:

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

16 (b) Except as provided by Subsection (c), a performance and
17 payment bond, alternative form of security, or combination of the
18 forms of security shall be in an amount equal to the cost of
19 constructing or maintaining the project.

20 (c) If the authority determines that it is impracticable for
21 a private entity to provide security in the amount described by
22 Subsection (b), the authority shall set the amount of the security.

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

26 (e) An authority may require one or more of the following
27 alternative forms of security:

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

3 (2) a United States bond or note;

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

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

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

10 SECTION 39. Section 391.004, Transportation Code, is
11 amended to read as follows:

12 Sec. 391.004. DISPOSITION OF FEES [~~TEXAS HIGHWAY~~
13 ~~BEAUTIFICATION FUND ACCOUNT~~]. [~~The Texas highway beautification~~
14 ~~fund account is an account in the general revenue fund.~~] Money the
15 commission receives under this chapter shall be deposited to the
16 credit of the state [~~Texas~~] highway [~~beautification~~] fund
17 [~~account~~]. The commission shall use money in the state [~~Texas~~]
18 highway [~~beautification~~] fund [~~account~~] to administer this chapter
19 and Chapter 394.

20 SECTION 40. (a) Subchapter A, Chapter 391, Transportation
21 Code, is amended by adding Section 391.006 to read as follows:

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

26 (1) a process to make information available describing
27 the department's procedures for complaint investigation and

1 resolution, including making information about the procedures
2 available on the department's Internet website;

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

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

8 (b) The department shall develop and provide a simple form
9 for filing complaints with the department.

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

14 (d) The department shall keep, in accordance with the
15 department's approved records retention schedule, an information
16 file about each written complaint filed with the department that
17 the department has authority to resolve. The department shall keep
18 the following information for each complaint for the purpose of
19 enforcing this chapter:

20 (1) the date the complaint is filed;

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

22 (3) the subject matter of the complaint;

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

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

27 (6) if the department does not take action on the

1 complaint, an explanation of the reasons that action was not taken.

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

8 (b) The Texas Transportation Commission shall adopt rules
9 under Section 391.006, Transportation Code, as added by this
10 section, not later than September 1, 2012.

11 SECTION 41. Subchapter B, Chapter 391, Transportation Code,
12 is amended by adding Section 391.0355 to read as follows:

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

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

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

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

26 (e) An administrative penalty collected under this section
27 shall be deposited to the credit of the state highway fund.

1 SECTION 42. Section 391.063, Transportation Code, is
2 amended to read as follows:

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

7 SECTION 43. Subsection (b), Section 391.065,
8 Transportation Code, is amended to read as follows:

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

17 SECTION 44. Section 391.066, Transportation Code, is
18 amended by adding Subsection (d) to read as follows:

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

22 SECTION 45. Subchapter C, Chapter 391, Transportation Code,
23 is amended by adding Section 391.0661 to read as follows:

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

1 SECTION 46. Section 394.005, Transportation Code, is
2 amended to read as follows:

3 Sec. 394.005. DISPOSITION OF FEES. Money the commission
4 receives [~~A registration fee collected~~] under this chapter [~~Section~~
5 ~~394.048 by the commission~~] shall be deposited to the credit of the
6 state highway fund.

7 SECTION 47. (a) Subchapter A, Chapter 394, Transportation
8 Code, is amended by adding Section 394.006 to read as follows:

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

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

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

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

22 (b) The department shall develop and provide a simple form
23 for filing complaints with the department.

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

1 (d) The department shall keep, pursuant to the department's
2 approved records retention schedule, an information file about each
3 written complaint filed with the department that the department has
4 authority to resolve. The department shall keep the following
5 information for each complaint for the purpose of enforcing this
6 chapter:

7 (1) the date the complaint is filed;

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

9 (3) the subject matter of the complaint;

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

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

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

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

22 (b) The Texas Transportation Commission shall adopt rules
23 under Section 394.006, Transportation Code, as added by this
24 section, not later than September 1, 2012.

25 SECTION 48. The heading to Subchapter B, Chapter 394,
26 Transportation Code, is amended to read as follows:

1 SUBCHAPTER B. LICENSE AND PERMIT FOR OFF-PREMISE SIGN

2 SECTION 49. (a) Subchapter B, Chapter 394, Transportation
3 Code, is amended by adding Sections 394.0201, 394.0202, 394.0203,
4 394.0204, 394.0205, 394.0206, 394.0207, 394.027, 394.028, and
5 394.029 to read as follows:

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

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

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

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

17 (1) files with the commission a completed application
18 form within the time specified by the commission;

19 (2) pays the appropriate license fee; and

20 (3) files with the commission a surety bond.

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

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

27 Sec. 394.0203. LICENSE FEE. The commission may set the

1 amount of a license fee according to a scale graduated by the number
2 of off-premise signs and units of outdoor advertising under Chapter
3 391 owned by a license applicant.

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

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

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

12 (b) A person may not be required to provide more than
13 \$10,000 in surety bonds.

14 Sec. 394.0205. RULES; FORMS. (a) The commission may adopt
15 rules to implement Sections 394.0201(a), 394.0202, 394.0203,
16 394.0204, and 394.0206.

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

25 (c) The commission may not adopt a rule under this chapter
26 that restricts competitive bidding or advertising by the holder of
27 a license issued under this chapter other than a rule to prohibit

1 false, misleading, or deceptive practices. The limitation provided
2 by this section applies only to rules relating to the occupation of
3 outdoor advertiser and does not affect the commission's power to
4 regulate the orderly and effective display of an off-premise sign
5 under this chapter. A rule to prohibit false, misleading, or
6 deceptive practices may not:

7 (1) restrict the use of:

8 (A) any legal medium for an advertisement;

9 (B) the license holder's advertisement under a
10 trade name; or

11 (C) the license holder's personal appearance or
12 voice in an advertisement, if the license holder is an individual;
13 or

14 (2) relate to the size or duration of an advertisement
15 by the license holder.

16 Sec. 394.0206. REVOCATION OR SUSPENSION OF LICENSE; APPEAL.

17 (a) The commission may revoke or suspend a license issued under
18 this subchapter or place on probation a license holder whose
19 license is suspended if the license holder violates this chapter or
20 a rule adopted under this chapter. If the suspension of the license
21 is probated, the department may require the license holder to
22 report regularly to the commission on any matter that is the basis
23 of the probation.

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

27 (c) The commission may adopt rules for the reissuance of a

1 revoked or suspended license and may set fees for the reissuance.

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

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

9 Sec. 394.027. DENIAL OF PERMIT; APPEAL. The commission may
10 create a process by which an applicant may appeal a denial of a
11 permit under this subchapter.

12 Sec. 394.028. FEE AMOUNTS. The license and permit fees
13 required by this subchapter may not exceed an amount reasonably
14 necessary to cover the administrative costs incurred to enforce
15 this chapter.

16 Sec. 394.029. EXCEPTIONS FOR CERTAIN NONPROFIT
17 ORGANIZATIONS. (a) The combined license and permit fees under
18 this subchapter may not exceed \$10 for an off-premise sign erected
19 and maintained by a nonprofit organization in a municipality or a
20 municipality's extraterritorial jurisdiction if the sign relates
21 to or promotes only the municipality or a political subdivision
22 whose jurisdiction is wholly or partly concurrent with the
23 municipality.

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

26 (b) The change in law made by Section 394.0201,
27 Transportation Code, as added by this section, applies only to an

1 off-premise sign erected or for which the permit expires on or after
2 the effective date of this Act. An off-premise sign for which a
3 permit is issued before the effective date of this Act is covered by
4 the law in effect when the permit was issued, and the former law is
5 continued in effect for that purpose.

6 SECTION 50. Section 394.050, Transportation Code, is
7 amended to read as follows:

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

14 SECTION 51. Subsections (a) and (d), Section 394.082,
15 Transportation Code, are amended to read as follows:

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

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

25 SECTION 52. Subchapter D, Chapter 472, Transportation Code,
26 is amended by adding Section 472.035 to read as follows:

27 Sec. 472.035. COORDINATION WITH DEPARTMENT TO DEVELOP

1 LONG-TERM PLANNING ASSUMPTIONS. Each metropolitan planning
2 organization shall work with the department to develop mutually
3 acceptable assumptions for the purposes of long-range federal and
4 state funding forecasts and use those assumptions to guide
5 long-term planning in the organization's long-range transportation
6 plan.

7 SECTION 53. Chapter 544, Transportation Code, is amended by
8 adding Section 544.013 to read as follows:

9 Sec. 544.013. CHANGEABLE MESSAGE SIGN SYSTEM. (a) In this
10 section, "changeable message sign" means a sign that conforms to
11 the manual and specifications adopted under Section 544.001. The
12 term includes a dynamic message sign.

13 (b) The Texas Department of Transportation in cooperation
14 with local governments shall actively manage a system of changeable
15 message signs located on highways under the jurisdiction of the
16 department to mitigate traffic congestion by providing current
17 information to the traveling public, including information about
18 traffic incidents, weather conditions, road construction, and
19 alternative routes when applicable.

20 SECTION 54. Section 621.001, Transportation Code, is
21 amended by amending Subdivisions (3) and (4) and adding Subdivision
22 (13) to read as follows:

23 (3) "Department" means the Texas Department of Motor
24 Vehicles [~~Transportation~~].

25 (4) "Director" means the executive director of the
26 Texas Department of Motor Vehicles [~~Transportation~~].

27 (13) "Board" means the board of the Texas Department

1 of Motor Vehicles.

2 SECTION 55. Subsection (a), Section 621.003,
3 Transportation Code, is amended to read as follows:

4 (a) The board [~~commission~~] by rule may authorize the
5 director to enter into with the proper authority of another state an
6 agreement that authorizes:

7 (1) the authority of the other state to issue on behalf
8 of the department to the owner or operator of a vehicle, or
9 combination of vehicles, that exceeds the weight or size limits
10 allowed by this state a permit that authorizes the operation or
11 transportation on a highway in this state of the vehicle or
12 combination of vehicles; and

13 (2) the department to issue on behalf of the authority
14 of the other state to the owner or operator of a vehicle, or
15 combination of vehicles, that exceeds the weight or size limits
16 allowed by that state a permit that authorizes the operation or
17 transportation on a highway of that state of the vehicle or
18 combination of vehicles.

19 SECTION 56. Section 621.004, Transportation Code, is
20 amended to read as follows:

21 Sec. 621.004. ADMISSIBILITY OF CERTIFICATE OF VERTICAL
22 CLEARANCE. In each civil or criminal proceeding in which a
23 violation of this chapter may be an issue, a certificate of the
24 vertical clearance of a structure, including a bridge or underpass,
25 signed by the executive director of the Texas Department of
26 Transportation is admissible in evidence for all purposes.

27 SECTION 57. Section 621.006, Transportation Code, is

1 amended to read as follows:

2 Sec. 621.006. RESTRICTED OPERATION ON CERTAIN HOLIDAYS.
3 The commission [~~department~~] by rule may impose restrictions on the
4 weight and size of vehicles to be operated on state highways on the
5 following holidays only:

- 6 (1) New Year's Day;
- 7 (2) Memorial Day;
- 8 (3) Independence Day;
- 9 (4) Labor Day;
- 10 (5) Thanksgiving Day; and
- 11 (6) Christmas Day.

12 SECTION 58. Subchapter A, Chapter 621, Transportation Code,
13 is amended by adding Section 621.008 to read as follows:

14 Sec. 621.008. RULEMAKING AUTHORITY. The board may adopt
15 rules necessary to implement and enforce this chapter.

16 SECTION 59. Section 621.102, Transportation Code, is
17 amended to read as follows:

18 Sec. 621.102. [~~COMMISSION'S~~] AUTHORITY TO SET MAXIMUM
19 WEIGHTS. (a) The executive director of the Texas Department of
20 Transportation [~~commission~~] may set the maximum single axle weight,
21 tandem axle weight, or gross weight of a vehicle, or maximum single
22 axle weight, tandem axle weight, or gross weight of a combination of
23 vehicles and loads, that may be moved over a state highway or a farm
24 or ranch road if the executive director [~~commission~~] finds that
25 heavier maximum weight would rapidly deteriorate or destroy the
26 road or a bridge or culvert along the road. A maximum weight set
27 under this subsection may not exceed the maximum set by statute for

1 that weight.

2 (b) [~~The commission must set a maximum weight under this~~
3 ~~section by order entered in its minutes.~~

4 [~~(c)~~] The executive director of the Texas Department of
5 Transportation [~~commission~~] must make the finding under this
6 section on an engineering and traffic investigation and in making
7 the finding shall consider the width, condition, and type of
8 pavement structures and other circumstances on the road.

9 (c) [~~(d)~~] A maximum weight or load set under this section
10 becomes effective on a highway or road when appropriate signs
11 giving notice of the maximum weight or load are erected on the
12 highway or road by the Texas Department of Transportation under
13 order of the commission.

14 (d) [~~(e)~~] A vehicle operating under a permit issued under
15 Section 623.011, 623.071, 623.094, 623.121, 623.142, 623.181,
16 623.192, or 623.212 may operate under the conditions authorized by
17 the permit over a road for which the executive director of the Texas
18 Department of Transportation [~~commission~~] has set a maximum weight
19 under this section.

20 (e) [~~(f)~~] For the purpose of this section, a farm or ranch
21 road is a state highway that is shown in the records of the
22 commission to be a farm-to-market or ranch-to-market road.

23 (f) [~~(g)~~] This section does not apply to a vehicle
24 delivering groceries, farm products, or liquefied petroleum gas.

25 SECTION 60. Subsections (a) and (b), Section 621.202,
26 Transportation Code, are amended to read as follows:

27 (a) To comply with safety and operational requirements of

1 federal law, the commission by order may set the maximum width of a
2 vehicle, including the load on the vehicle, at eight feet for a
3 designated highway or segment of a highway if the results of an
4 engineering and traffic study, conducted by the Texas Department of
5 Transportation, that includes an analysis of structural capacity of
6 bridges and pavements, traffic volume, unique climatic conditions,
7 and width of traffic lanes support the change.

8 (b) An order under this section becomes effective on the
9 designated highway or segment when appropriate signs giving notice
10 of the limitations are erected by the Texas Department of
11 Transportation.

12 SECTION 61. Subsections (a) and (d), Section 621.301,
13 Transportation Code, are amended to read as follows:

14 (a) The commissioners court of a county may establish load
15 limits for any county road or bridge only with the concurrence of
16 the Texas Department of Transportation [~~department~~]. A load limit
17 shall be deemed concurred with by the Texas Department of
18 Transportation [~~department~~] 30 days after the county submits to the
19 Texas Department of Transportation [~~department~~] the load limit
20 accompanied by supporting documentation and calculations reviewed
21 and sealed by an engineer licensed in this state, though the Texas
22 Department of Transportation [~~department~~] may review the load limit
23 and withdraw concurrence at any time after the 30-day period.

24 (d) A maximum weight set under this section becomes
25 effective on a road when appropriate signs giving notice of the
26 maximum weight are erected by the Texas Department of
27 Transportation on the road under order of the commissioners court.

1 SECTION 62. Subsection (a), Section 621.352,
2 Transportation Code, is amended to read as follows:

3 (a) The board [~~commission~~] by rule may establish fees for
4 the administration of Section 621.003 in an amount that, when added
5 to the other fees collected by the department, does not exceed the
6 amount sufficient to recover the actual cost to the department of
7 administering that section. An administrative fee collected under
8 this section shall be sent to the comptroller for deposit to the
9 credit of the state highway fund and may be appropriated only to the
10 department for the administration of Section 621.003.

11 SECTION 63. Section 621.356, Transportation Code, is
12 amended to read as follows:

13 Sec. 621.356. FORM OF PAYMENT. The board [~~commission~~] may
14 adopt rules prescribing the method for payment of a fee for a permit
15 issued by the department that authorizes the operation of a vehicle
16 and its load or a combination of vehicles and load exceeding size or
17 weight limitations. The rules may:

18 (1) authorize the use of electronic funds transfer or
19 a credit card issued by:

20 (A) a financial institution chartered by a state
21 or the federal government; or

22 (B) a nationally recognized credit organization
23 approved by the board [~~commission~~]; and

24 (2) require the payment of a discount or service
25 charge for a credit card payment in addition to the fee.

26 SECTION 64. Section 621.504, Transportation Code, is
27 amended to read as follows:

1 Sec. 621.504. BRIDGE OR UNDERPASS CLEARANCE. A person may
2 not operate or attempt to operate a vehicle over or on a bridge or
3 through an underpass or similar structure unless the height of the
4 vehicle, including load, is less than the vertical clearance of the
5 structure as shown by the records of the Texas Department of
6 Transportation [~~department~~].

7 SECTION 65. Section 622.001, Transportation Code, is
8 amended to read as follows:

9 Sec. 622.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

10 (1) "Commission" means the Texas Transportation
11 Commission.

12 (2) "Department" [~~,"department"~~] means the Texas
13 Department of Motor Vehicles [~~Transportation~~].

14 SECTION 66. Subchapter A, Chapter 622, Transportation Code,
15 is amended by adding Section 622.002 to read as follows:

16 Sec. 622.002. RULEMAKING AUTHORITY. The board of the
17 department may adopt rules necessary to implement and enforce this
18 chapter.

19 SECTION 67. Subsections (a) and (b), Section 622.013,
20 Transportation Code, are amended to read as follows:

21 (a) The owner of a ready-mixed concrete truck with a tandem
22 axle weight heavier than 34,000 pounds shall before operating the
23 vehicle on a public highway of this state file with the department a
24 surety bond subject to the approval of the Texas Department of
25 Transportation [~~department~~] in the principal amount set by the
26 Texas Department of Transportation [~~department~~] not to exceed
27 \$15,000 for each truck.

1 (b) The bond must be conditioned that the owner of the truck
2 will pay to the Texas Department of Transportation [~~state~~], within
3 the limit of the bond, any damage to a highway caused by the
4 operation of the truck.

5 SECTION 68. Subsections (a) and (b), Section 622.134,
6 Transportation Code, are amended to read as follows:

7 (a) Except as provided by Subsection (c), the owner of a
8 vehicle covered by this subchapter with a tandem axle weight
9 heavier than 34,000 pounds shall before operating the vehicle on a
10 public highway of this state file with the department a surety bond
11 subject to the approval of the Texas Department of Transportation
12 [~~department~~] in the principal amount set by the Texas Department of
13 Transportation [~~department~~] not to exceed \$15,000 for each vehicle.

14 (b) The bond must be conditioned that the owner of the
15 vehicle will pay, within the limits of the bond, to the Texas
16 Department of Transportation [~~state~~] any damage to a highway, to a
17 county any damage to a county road, and to a municipality any damage
18 to a municipal street caused by the operation of the vehicle.

19 SECTION 69. Section 623.001, Transportation Code, is
20 amended by amending Subdivision (1) and adding Subdivisions (4) and
21 (5) to read as follows:

22 (1) "Department" means the Texas Department of Motor
23 Vehicles [~~Transportation~~].

24 (4) "Board" means the board of the Texas Department of
25 Motor Vehicles.

26 (5) "Commission" means the Texas Transportation
27 Commission.

1 SECTION 70. Subchapter A, Chapter 623, Transportation Code,
2 is amended by adding Sections 623.002 and 623.003 to read as
3 follows:

4 Sec. 623.002. RULEMAKING AUTHORITY. The board may adopt
5 rules necessary to implement and enforce this chapter.

6 Sec. 623.003. ROUTE DETERMINATION. (a) To the extent the
7 department is required to determine a route under this chapter, the
8 department shall base the department's routing decision on
9 information provided by the Texas Department of Transportation.

10 (b) The Texas Department of Transportation shall provide
11 the department with all routing information necessary to complete a
12 permit issued under Section 623.071, 623.121, 623.142, or 623.192.

13 SECTION 71. Section 623.0112, Transportation Code, is
14 amended to read as follows:

15 Sec. 623.0112. ADDITIONAL ADMINISTRATIVE FEE. When a
16 person applies for a permit under Section 623.011, the person must
17 pay in addition to other fees an administrative fee adopted by board
18 [~~department~~] rule in an amount not to exceed the direct and indirect
19 cost to the department of:

- 20 (1) issuing a sticker under Section 623.011(d);
21 (2) distributing fees under Section 621.353; and
22 (3) notifying counties under Section 623.013.

23 SECTION 72. Subsection (b), Section 623.012,
24 Transportation Code, is amended to read as follows:

25 (b) The bond or letter of credit must:

- 26 (1) be in the amount of \$15,000 payable to the Texas
27 Department of Transportation [~~department~~] and the counties of this

1 state;

2 (2) be conditioned that the applicant will pay the
3 Texas Department of Transportation [~~department~~] for any damage to a
4 state highway, and a county for any damage to a road or bridge of the
5 county, caused by the operation of the vehicle for which the permit
6 is issued at a heavier weight than the maximum weights authorized by
7 Subchapter B of Chapter 621 or Section 621.301; and

8 (3) provide that the issuer is to notify the Texas
9 Department of Transportation [~~department~~] and the applicant in
10 writing promptly after a payment is made by the issuer on the bond
11 or letter of credit.

12 SECTION 73. Subsections (a) and (b), Section 623.016,
13 Transportation Code, are amended to read as follows:

14 (a) The Texas Department of Transportation [~~department~~] or
15 a county may recover on the bond or letter of credit required for a
16 permit issued under Section 623.011 only by a suit against the
17 permit holder and the issuer of the bond or letter of credit.

18 (b) Venue for a suit by the Texas Department of
19 Transportation [~~department~~] is in a district court in:

20 (1) the county in which the defendant resides;

21 (2) the county in which the defendant has its
22 principal place of business in this state if the defendant is a
23 corporation or partnership; or

24 (3) Travis County if the defendant is a corporation or
25 partnership that does not have a principal place of business in this
26 state.

27 SECTION 74. Subsection (a), Section 623.051,

1 Transportation Code, is amended to read as follows:

2 (a) A person may operate a vehicle that cannot comply with
3 one or more of the restrictions of Subchapter C of Chapter 621 or
4 Section 621.101 to cross the width of any road or highway under the
5 jurisdiction of the Texas Department of Transportation
6 [~~department~~], other than a controlled access highway as defined by
7 Section 203.001, from private property to other private property if
8 the person contracts with the commission to indemnify the Texas
9 Department of Transportation [~~department~~] for the cost of
10 maintenance and repair of the part of the highway crossed by the
11 vehicle.

12 SECTION 75. Subsection (b), Section 623.052,
13 Transportation Code, is amended to read as follows:

14 (b) Before a person may operate a vehicle under this
15 section, the person must:

16 (1) contract with the Texas Department of
17 Transportation [~~department~~] to indemnify the Texas Department of
18 Transportation [~~department~~] for the cost of the maintenance and
19 repair for damage caused by a vehicle crossing that part of the
20 highway; and

21 (2) execute an adequate surety bond to compensate for
22 the cost of maintenance and repair, approved by the comptroller and
23 the attorney general, with a corporate surety authorized to do
24 business in this state, conditioned on the person fulfilling each
25 obligation of the agreement.

26 SECTION 76. Subsection (a), Section 623.075,
27 Transportation Code, is amended to read as follows:

1 (a) Before the department may issue a permit under this
2 subchapter, the applicant shall file with the department a bond in
3 an amount set by the Texas Department of Transportation
4 [~~department~~], payable to the Texas Department of Transportation
5 [~~department~~], and conditioned that the applicant will pay to the
6 Texas Department of Transportation [~~department~~] any damage that
7 might be sustained to the highway because of the operation of the
8 equipment for which a permit is issued.

9 SECTION 77. Subsections (b) and (c), Section 623.076,
10 Transportation Code, are amended to read as follows:

11 (b) The board [~~Texas Transportation Commission~~] may adopt
12 rules for the payment of a fee under Subsection (a). The rules may:

13 (1) authorize the use of electronic funds transfer;

14 (2) authorize the use of a credit card issued by:

15 (A) a financial institution chartered by a state
16 or the United States; or

17 (B) a nationally recognized credit organization
18 approved by the board [~~Texas Transportation Commission~~]; and

19 (3) require the payment of a discount or service
20 charge for a credit card payment in addition to the fee prescribed
21 by Subsection (a).

22 (c) An application for a permit under Section 623.071(c)(3)
23 or (d) must be accompanied by the permit fee established by the
24 board, in consultation with the commission, for the permit, not to
25 exceed \$7,000. Of each fee collected under this subsection, the
26 department shall send:

27 (1) the first \$1,000 to the comptroller for deposit to

1 the credit of the general revenue fund; and

2 (2) any amount in excess of \$1,000 to the comptroller
3 for deposit to the credit of the state highway fund.

4 SECTION 78. Section 623.078, Transportation Code, is
5 amended to read as follows:

6 Sec. 623.078. VEHICLE SUPERVISION FEE. (a) Each applicant
7 for a permit under this subchapter for a vehicle that is heavier
8 than 200,000 pounds must also pay a vehicle supervision fee in an
9 amount determined by the Texas Department of Transportation
10 [~~department~~] and designed to recover the direct cost of providing
11 safe transportation of the vehicle over the state highway system,
12 including the cost of:

- 13 (1) bridge structural analysis;
14 (2) the monitoring of the trip process; and
15 (3) moving traffic control devices.

16 (b) The board [~~department~~] shall send each fee collected
17 under Subsection (a) to the comptroller for deposit to the credit of
18 the state highway fund.

19 SECTION 79. Subsection (a), Section 623.080,
20 Transportation Code, is amended to read as follows:

21 (a) Except as provided by Subsection (b), a permit under
22 this subchapter must include:

- 23 (1) the name of the applicant;
24 (2) the date of issuance;
25 (3) the signature of the director of the department
26 [~~or of a division engineer~~];
27 (4) a statement of the kind of equipment to be

1 transported over the highway, the weight and dimensions of the
2 equipment, and the kind and weight of each commodity to be
3 transported; and

4 (5) a statement of any condition on which the permit is
5 issued.

6 SECTION 80. Subsection (f), Section 623.093,
7 Transportation Code, is amended to read as follows:

8 (f) If an application for a permit to move a manufactured
9 house is accompanied by a copy of a writ of possession issued by a
10 court of competent jurisdiction, the applicant is not required to
11 submit the written statement from the chief appraiser [~~set forth in~~
12 ~~Subsection (d)~~].

13 SECTION 81. Subsection (b), Section 623.096,
14 Transportation Code, is amended to read as follows:

15 (b) The board, in consultation with the Texas Department of
16 Transportation, [~~department~~] shall adopt rules concerning fees for
17 each annual permit issued under Section 623.095(c) at a cost not to
18 exceed \$3,000.

19 SECTION 82. Subsection (e), Section 623.099,
20 Transportation Code, is amended to read as follows:

21 (e) The Texas Department of Transportation [~~department~~]
22 shall publish and annually revise a map or list of the bridges or
23 overpasses that because of height or width require an escort flag
24 vehicle to stop oncoming traffic while a manufactured house crosses
25 the bridge or overpass.

26 SECTION 83. Subsections (b) and (c), Section 623.100,
27 Transportation Code, are amended to read as follows:

1 (b) The Texas Department of Transportation [~~department~~] may
2 limit the hours for travel on certain routes because of heavy
3 traffic conditions.

4 (c) The Texas Department of Transportation [~~department~~]
5 shall publish the limitation on movements prescribed by this
6 section and the limitations adopted under Subsection (b) and shall
7 make the publications available to the public. Each limitation
8 adopted by the Texas Department of Transportation [~~department~~] must
9 be made available to the public before it takes effect.

10 SECTION 84. Subsection (a), Section 623.126,
11 Transportation Code, is amended to read as follows:

- 12 (a) A permit issued under this subchapter must:
- 13 (1) contain the name of the applicant;
 - 14 (2) be dated and signed by the director of the
15 department [~~, a division engineer,~~] or a designated agent;
 - 16 (3) state the make and model of the portable building
17 unit or units to be transported over the highways;
 - 18 (4) state the make and model of the towing vehicle;
 - 19 (5) state the combined length and width of the
20 portable building unit or units and towing vehicle; and
 - 21 (6) state each highway over which the portable
22 building unit or units are to be moved.

23 SECTION 85. Subsection (a), Section 623.142,
24 Transportation Code, is amended to read as follows:

25 (a) The department may, on application, issue a permit for
26 the movement over a road or highway under the jurisdiction of the
27 Texas Department of Transportation [~~department~~] of a vehicle that:

1 (1) is a piece of fixed-load mobile machinery or
2 equipment used to service, clean out, or drill an oil well; and

3 (2) cannot comply with the restrictions set out in
4 Subchapter C of Chapter 621 and Section 621.101.

5 SECTION 86. Sections 623.145 and 623.146, Transportation
6 Code, are amended to read as follows:

7 Sec. 623.145. RULES; FORMS AND PROCEDURES; FEES. (a) The
8 board, in consultation with the commission, [~~Texas Transportation~~
9 ~~Commission~~] by rule shall provide for the issuance of permits under
10 this subchapter. The rules must include each matter the board and
11 commission determine [~~determines~~] necessary to implement this
12 subchapter and:

13 (1) requirements for forms and procedures used in
14 applying for a permit;

15 (2) conditions with regard to route and time of
16 movement;

17 (3) requirements for flags, flaggers, and warning
18 devices;

19 (4) the fee for a permit; and

20 (5) standards to determine whether a permit is to be
21 issued for one trip only or for a period established by the
22 commission.

23 (b) In adopting a rule or establishing a fee, the board and
24 commission shall consider and be guided by:

25 (1) the state's investment in its highway system;

26 (2) the safety and convenience of the general
27 traveling public;

- 1 (3) the registration or license fee paid on the
2 vehicle for which the permit is requested;
- 3 (4) the fees paid by vehicles operating within legal
4 limits;
- 5 (5) the suitability of roadways and subgrades on the
6 various classes of highways of the system;
- 7 (6) the variation in soil grade prevalent in the
8 different regions of the state;
- 9 (7) the seasonal effects on highway load capacity;
- 10 (8) the highway shoulder design and other highway
11 geometrics;
- 12 (9) the load capacity of the highway bridges;
- 13 (10) administrative costs;
- 14 (11) added wear on highways; and
- 15 (12) compensation for inconvenience and necessary
16 delays to highway users.

17 Sec. 623.146. VIOLATION OF RULE. A permit under this
18 subchapter is void on the failure of an owner or the owner's
19 representative to comply with a rule of the board [~~commission~~] or
20 with a condition placed on the permit, and immediately on the
21 violation, further movement over the highway of an oversize or
22 overweight vehicle violates the law regulating the size or weight
23 of a vehicle on a public highway.

24 SECTION 87. Subsections (a) and (b), Section 623.163,
25 Transportation Code, are amended to read as follows:

26 (a) The owner of a vehicle used exclusively to transport
27 solid waste with a tandem axle load heavier than 34,000 pounds shall

1 before operating the vehicle on a public highway of this state file
2 with the department a surety bond subject to the approval of the
3 Texas Department of Transportation [~~department~~] in the principal
4 amount set by the Texas Department of Transportation [~~department~~]
5 not to exceed \$15,000 for each vehicle.

6 (b) The bond must be conditioned that the owner of the
7 vehicle will pay to the Texas Department of Transportation [~~state~~]
8 and to any municipality in which the vehicle is operated on a
9 municipal street, within the limit of the bond, any damages to a
10 highway or municipal street caused by the operation of the vehicle.

11 SECTION 88. Subsection (a), Section 623.192,
12 Transportation Code, is amended to read as follows:

13 (a) The department may, on application, issue a permit to a
14 person to move over a road or highway under the jurisdiction of the
15 Texas Department of Transportation [~~department~~] an unladen lift
16 equipment motor vehicle that cannot comply with the restrictions
17 set out in Subchapter C of Chapter 621 and Section 621.101.

18 SECTION 89. Sections 623.195 and 623.196, Transportation
19 Code, are amended to read as follows:

20 Sec. 623.195. RULES; FORMS AND PROCEDURES; FEES. (a) The
21 board, in consultation with the commission, [~~Texas Transportation~~
22 ~~Commission~~] by rule shall provide for the issuance of a permit under
23 this subchapter. The rules must include each matter the board and
24 the commission determine [~~determines~~] necessary to implement this
25 subchapter and:

26 (1) requirements for forms and procedures used in
27 applying for a permit;

- 1 (2) conditions with regard to route and time of
2 movement;
- 3 (3) requirements for flags, flaggers, and warning
4 devices;
- 5 (4) the fee for a permit; and
- 6 (5) standards to determine whether a permit is to be
7 issued for one trip only or for a period established by the
8 commission.

9 (b) In adopting a rule or establishing a fee, the board and
10 the commission shall consider and be guided by:

- 11 (1) the state's investment in its highway system;
- 12 (2) the safety and convenience of the general
13 traveling public;
- 14 (3) the registration or license fee paid on the
15 vehicle for which the permit is requested;
- 16 (4) the fees paid by vehicles operating within legal
17 limits;
- 18 (5) the suitability of roadways and subgrades on the
19 various classes of highways of the system;
- 20 (6) the variation in soil grade prevalent in the
21 different regions of the state;
- 22 (7) the seasonal effects on highway load capacity;
- 23 (8) the highway shoulder design and other highway
24 geometrics;
- 25 (9) the load capacity of highway bridges;
- 26 (10) administrative costs;
- 27 (11) added wear on highways; and

1 (12) compensation for inconvenience and necessary
2 delays to highway users.

3 Sec. 623.196. VIOLATION OF RULE. A permit under this
4 subchapter is void on the failure of an owner or the owner's
5 representative to comply with a rule of the board [~~commission~~] or
6 with a condition placed on the permit, and immediately on the
7 violation, further movement over a highway of an oversize or
8 overweight vehicle violates the law regulating the size or weight
9 of a vehicle on a public highway.

10 SECTION 90. Section 623.212, Transportation Code, is
11 amended to read as follows:

12 Sec. 623.212. PERMITS BY PORT AUTHORITY. The commission
13 [~~department~~] may authorize a port authority to issue permits for
14 the movement of oversize or overweight vehicles carrying cargo on
15 state highways located in counties contiguous to the Gulf of Mexico
16 or a bay or inlet opening into the gulf and bordering the United
17 Mexican States.

18 SECTION 91. Subsection (b), Section 623.215,
19 Transportation Code, is amended to read as follows:

20 (b) A port authority shall report to the Texas Department of
21 Transportation [~~department~~] all permits issued under this
22 subchapter.

23 SECTION 92. Section 623.233, Transportation Code, is
24 amended to read as follows:

25 Sec. 623.233. MAINTENANCE CONTRACTS. The district shall
26 make payments to the Texas Department of Transportation
27 [~~department~~] to provide funds for the maintenance of state highways

1 subject to this subchapter.

2 SECTION 93. Subsection (b), Section 623.235,
3 Transportation Code, is amended to read as follows:

4 (b) The district shall report to the Texas Department of
5 Transportation [~~department~~] all permits issued under this
6 subchapter.

7 SECTION 94. Section 623.253, Transportation Code, is
8 amended to read as follows:

9 Sec. 623.253. MAINTENANCE CONTRACTS. The county shall make
10 payments to the Texas Department of Transportation [~~department~~] to
11 provide funds for the maintenance of state highways subject to this
12 subchapter.

13 SECTION 95. Section 623.304, Transportation Code, is
14 amended to read as follows:

15 Sec. 623.304. MAINTENANCE CONTRACTS. The port authority
16 shall make payments to the Texas Department of Transportation
17 [~~department~~] to provide funds for the maintenance of state highways
18 subject to this subchapter.

19 SECTION 96. Subsection (c), Section 547.304,
20 Transportation Code, is amended to read as follows:

21 (c) Except for Sections 547.323 and 547.324, a provision of
22 this chapter that requires a vehicle to be equipped with lamps,
23 reflectors, and lighting equipment does not apply to a mobile home
24 if the mobile home:

25 (1) is moved under a permit issued by the Texas
26 Department of Motor Vehicles [~~Transportation~~] under Subchapter D,
27 Chapter 623; and

1 (2) is not moved at a time or under a condition
2 specified by Section 547.302(a).

3 SECTION 97. Subsection (b), Section 1001.002,
4 Transportation Code, is amended to read as follows:

5 (b) In addition to the other duties required of the Texas
6 Department of Motor Vehicles, the department shall administer and
7 enforce:

8 (1) Subtitle A;

9 (2) Chapters 621, 622, 623, 642, 643, 645, 646, and
10 648; and

11 (3) Chapters 2301 and 2302, Occupations Code.

12 SECTION 98. Subsections (a), (b), and (c), Section
13 1201.161, Occupations Code, are amended to read as follows:

14 (a) Notwithstanding any other statute or rule or ordinance,
15 a licensed retailer or licensed installer is not required to obtain
16 a permit, certificate, or license or pay a fee to transport
17 manufactured housing to the place of installation except as
18 required by the Texas Department of Motor Vehicles [~~Transportation~~]
19 under Subchapter E, Chapter 623, Transportation Code.

20 (b) The department shall cooperate with the Texas
21 Department of Motor Vehicles [~~Transportation~~] by providing current
22 lists of licensed manufacturers, retailers, and installers.

23 (c) The Texas Department of Motor Vehicles [~~Transportation~~]
24 shall send the department monthly:

25 (1) a copy of each permit issued in the preceding month
26 for the movement of manufactured housing on the highways; or

27 (2) a list of the permits issued in the preceding month

1 and the information on the permits.

2 SECTION 99. Section 201.0545, Subsection (h), Section
3 223.201, and Section 370.314, Transportation Code, are repealed.

4 SECTION 100. (a) A governmental act taken or a decision
5 made by the Texas Department of Transportation and the Texas
6 Transportation Commission under Subchapter E, Chapter 223,
7 Transportation Code, before the effective date of this Act, to
8 negotiate, execute, or otherwise enter into a comprehensive
9 development agreement or facility agreement relating to the North
10 Tarrant Express project is conclusively presumed, as of the date
11 the act or decision occurred, to be valid and to have occurred in
12 accordance with all applicable law.

13 (b) This Act does not validate any governmental act or
14 decision that:

15 (1) is inconsistent with Section 223.201,
16 Transportation Code, as amended by this Act, and Section 223.2012,
17 Transportation Code, as added by this Act, relating to the North
18 Tarrant Express project;

19 (2) was void at the time the act or decision occurred;

20 (3) violates the terms of federal law or a federal
21 waiver; or

22 (4) was a misdemeanor or a felony under a statute of
23 this state or the United States at the time the act or decision
24 occurred.

25 (c) This Act does not apply to any matter that on the
26 effective date of this Act:

27 (1) is involved in litigation if the litigation

1 ultimately results in the matter being held invalid by a final court
2 judgment; or

3 (2) has been held invalid by a final court judgment.

4 SECTION 101. This section and the sections of this Act that
5 amend Section 223.201, Transportation Code, add Sections 223.2011
6 and 223.2012, Transportation Code, repeal Subsection (h), Section
7 223.201, Transportation Code, and provide transitional information
8 related to those sections take effect immediately if this Act
9 receives a vote of two-thirds of all the members elected to each
10 house, as provided by Section 39, Article III, Texas Constitution.
11 If this Act does not receive the vote necessary for immediate
12 effect, those provisions take effect September 1, 2011.

13 SECTION 102. (a) Except as otherwise provided by this Act,
14 not later than January 1, 2012, the following are transferred from
15 the Texas Department of Transportation to the Texas Department of
16 Motor Vehicles:

17 (1) the powers, duties, functions, programs,
18 activities, and rights of action of the Texas Department of
19 Transportation relating to oversize and overweight vehicles under
20 Chapters 621, 622, and 623, Transportation Code;

21 (2) any obligations, funds, negotiations, grants,
22 memoranda of understanding, leases, rights, and contracts of the
23 Texas Department of Transportation that are directly related to
24 implementing a power, duty, function, program, activity, or right
25 of action transferred under this subsection; and

26 (3) all personnel, furniture, computers, equipment,
27 other property, records, and related materials in the custody of

1 the Texas Department of Transportation that are related to a power,
2 duty, function, program, activity, or right of action transferred
3 under this subsection and all funds appropriated by the legislature
4 for that power, duty, function, program, activity, or right of
5 action.

6 (b) The Texas Department of Motor Vehicles shall continue
7 any case or proceeding relating to oversize and overweight vehicles
8 under Chapters 621, 622, and 623, Transportation Code, that was
9 brought before the effective date of this Act in accordance with the
10 law in effect on the date the case or proceeding was brought, and
11 the former law is continued in effect for that purpose.

12 (c) A certificate, license, document, permit, registration,
13 or other authorization issued by the Texas Department of
14 Transportation relating to oversize and overweight vehicles under
15 Chapters 621, 622, and 623, Transportation Code, that is in effect
16 on the effective date of this Act remains valid for the period for
17 which it was issued unless suspended or revoked by the Texas
18 Department of Motor Vehicles.

19 (d) The unobligated and unexpended balance of any
20 appropriations made to the Texas Department of Transportation in
21 connection with or relating to oversize and overweight vehicles
22 under Chapter 621, 622, or 623, Transportation Code, for the state
23 fiscal biennium ending August 31, 2011, is transferred and
24 reappropriated to the Texas Department of Motor Vehicles for the
25 purpose of implementing the powers, duties, obligations, and rights
26 of action transferred to that department.

27 (e) The Texas Department of Transportation shall continue,

1 as necessary, to perform the duties and functions that are being
2 transferred to the Texas Department of Motor Vehicles under this
3 Act until the transfer of agency duties and functions is complete.

4 (f) A rule or form adopted by the Texas Department of
5 Transportation that relates to a power, duty, function, program,
6 activity, or right of action transferred under Subsection (a) of
7 this section is a rule or form of the Texas Department of Motor
8 Vehicles and remains in effect until altered by the Texas
9 Department of Motor Vehicles.

10 (g) A reference in law to the Texas Department of
11 Transportation that relates to a power, duty, function, program,
12 activity, or right of action transferred under Subsection (a) of
13 this section means the Texas Department of Motor Vehicles.

14 SECTION 103. (a) The Texas Department of Motor Vehicles
15 may enter into a memorandum of understanding with a state agency,
16 including the Texas Department of Transportation, if the board of
17 the Texas Department of Motor Vehicles determines the memorandum is
18 necessary or appropriate to implement the changes made by this Act
19 to Chapters 621, 622, and 623, Transportation Code.

20 (b) The memorandum of understanding described by Subsection
21 (a) of this section may:

22 (1) coordinate the Texas Department of Motor Vehicles'
23 and the Texas Department of Transportation's information systems to
24 allow for the sharing of information so each department may
25 effectively and efficiently perform the functions and duties
26 assigned to the department;

27 (2) provide for implementing the memorandum using

1 existing personnel and resources from the Texas Department of Motor
2 Vehicles and the Texas Department of Transportation;

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

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

10 (5) include an agreement for:

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

13 (B) the need for full-time equivalent positions
14 of the Texas Department of Transportation to provide support
15 services in addition to the positions transferred to the Texas
16 Department of Motor Vehicles under Subdivision (3), Subsection (a),
17 Section 102 of this Act;

18 (C) support services; and

19 (D) the transfer of information technology as
20 necessary or appropriate to effectuate the transfer of the powers
21 and duties of the Texas Department of Transportation to the Texas
22 Department of Motor Vehicles.

23 (c) The Texas Department of Motor Vehicles and the Texas
24 Department of Transportation may not impose, collect, or charge a
25 fee in connection with the sharing of information under a
26 memorandum of understanding entered into or revised under this
27 section.

1 SECTION 104. Except as otherwise provided by this Act, this
2 Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1420 passed the Senate on April 18, 2011, by the following vote: Yeas 31, Nays 0; May 6, 2011, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 17, 2011, House granted request of the Senate; May 28, 2011, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1420 passed the House, with amendments, on May 2, 2011, by the following vote: Yeas 121, Nays 24, one present not voting; May 17, 2011, House granted request of the Senate for appointment of Conference Committee; May 29, 2011, House adopted Conference Committee Report by the following vote: Yeas 118, Nays 26, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor