

## **BILL ANALYSIS**

Senate Research Center

S.B. 1706  
By: Staples  
Transportation & Homeland Security  
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### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Through H.B. 3588 and H.B. 2, the 78th Legislature enacted sweeping changes to the fundamental laws governing transportation financing and development. These laws address, among other things, the financing and development of the Trans-Texas Corridor, regional mobility authorities, pass-through tolls, the financing and development of TxDOT turnpikes, and the financing and development of rail facilities.

As proposed, S.B. 1706 revises the provisions of HB.3588, 78th Legislature, Regular Session, 2003, and H. B. 2, 78th Legislature, Third Called Session, 2003, to address issues raised in the implementation of the bills, to provide the tools necessary for the Texas Department of Transportation (TxDOT) to address current transportation needs, and to address other transportation-related issues.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Department of Transportation in SECTION 1.02 (Section 91.055, Transportation Code) and SECTION 2.11 (Sections 223.203 and 223.205, Transportation Code) of this bill.

Rulemaking authority is expressly granted to the Texas Transportation Commission in SECTION 1.02 (Sections 91.057 91.061, Transportation Code), SECTION 1.05 (Section 91.075, Transportation Code), SECTION 2.11 (Section 223.209, Transportation Code) of this bill.

Rulemaking authority previously granted to the Texas Transportation Commission is rescinded in SECTION 2.17 (Section 228.004, Transportation Code) of this bill.

Rulemaking authority previously granted to the State Aircraft Pooling Board is transferred to the Texas Transportation Commission in SECTION 3.11 (Section 2205.043, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. RAIL FACILITIES

SECTION 1.01. Amends Section 91.051, Transportation Code, to require a contract, except for a contract entered into under Section 91.052, 91.054, or 91.102, rather than unless otherwise provided by this subchapter, made by the Texas Department of Transportation (department) for the construction, maintenance, or operation of a rail facility, to be let by a competitive bidding procedure in which the contract is awarded to the lowest responsible bidder that complies with the department's criteria.

SECTION 1.02. Amends Subchapter C, Chapter 91, Transportation Code, by adding Sections 91.054-91.061, as follows:

Sec. 91.054. COMPREHENSIVE DEVELOPMENT AGREEMENTS.

(a) Authorizes the department to enter into a comprehensive development agreement with a private entity to acquire, construct, maintain, or operate a rail facility or system.

(b) Defines "comprehensive development agreement."

(c) Authorizes the department to negotiate provisions relating to professional and consulting services provided in connection with a comprehensive development agreement.

(d) Authorizes the department to authorize the investment of public and private money, including debt and equity participation, to finance a function described by this section.

(e) Provides that claims arising under a comprehensive development agreement are subject to Section 201.112.

(f) Provides that the authority to enter into comprehensive development agreements provided by this section expires on August 31, 2011.

Sec. 91.055. PROCESS FOR ENTERING INTO COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) Requires the department, if the department enters into a comprehensive development agreement, to use a competitive procurement process that provides the best value for the department. Authorizes the department to accept unsolicited proposals for a proposed project or solicit proposals in accordance with this section.

(b) Requires the department to establish rules and procedures for accepting unsolicited proposals that require the private entity to include certain information in the proposal.

(c) Requires the department to publish a notice advertising a request for competing proposals and qualifications in the Texas Register that includes the criteria to be used to evaluate the proposals, the relative weight given to the criteria, and a deadline by which proposals must be received in certain circumstances.

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

(e) Authorizes the department to interview a private entity submitting an unsolicited proposal or responding to a request under Subsection (c). Requires the department to evaluate each proposal based on the criteria described in the request for competing proposals and qualifications and may qualify or shortlist private entities to submit detailed proposals under Subsection (f). Requires the department to qualify or shortlist at least two private entities to submit detailed proposals for a project under Subsection (f) unless the department does not receive more than one proposal or one response to a request under Subsection (c).

(f) Requires the department to issue a request for detailed proposals from all private entities qualified or shortlisted under Subsection (e) if the department proceeds with the further evaluation of a proposed project. Authorizes a request under this subsection to require certain additional information.

(g) Authorizes the department, in issuing a request for proposals under Subsection (f), to solicit input from entities qualified under Subsection (e) or any other person. Authorizes the department to also solicit input regarding alternative technical concepts after issuing a request under Subsection (f).

(h) Requires the department to evaluate each proposal based on the criteria described in the request for detailed proposals and select the private entity whose proposal offers the apparent best value to the department.

(i) Authorizes the department to enter into discussions with the private entity whose proposal offers the apparent best value. Requires discussions to be limited to certain issues and topics.

(j) Authorizes the department, if at any point in negotiations under Subsection (i) it appears to the department that the highest ranking proposal will not provide the department with the overall best value, to enter into negotiations with the private entity submitting the next highest ranking proposal.

(k) Authorizes the department to withdraw a request for competing proposals and qualifications or a request for detailed proposals at any time. Authorizes the department to then publish a new request for competing proposals and qualifications.

(l) Authorizes the department to require that an unsolicited proposal be accompanied by a nonrefundable fee sufficient to cover all or part of its cost to review the proposal.

(m) Requires the department to pay an unsuccessful private entity that submits a responsive proposal in response to a request for detailed proposals under Subsection (f) a stipulated amount in exchange for the work product contained in that proposal. Requires the stipulated amount to be stated in the request for proposals and prohibits the amount from exceeding the value of any work product contained in the proposal that can, as determined by the department, be used by the department in the performance of its functions. Provides that the use by the department of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the department and does not confer liability on the recipient of the stipulated amount under this section. Provides that after payment of the stipulated amount:

(1) the department owns with the unsuccessful proposer jointly the rights to, and may make use of any work product contained in, the proposal, including the technologies, techniques, methods, processes, ideas, and information contained in the project design; and

(2) the use by the unsuccessful proposer of any portion of the work product contained in the proposal is at the sole risk of the unsuccessful proposer and does not confer liability on the department.

(n) Authorizes the department to prescribe the general form of a comprehensive development agreement and to include any matter the department considers advantageous to the department. Requires the department and the private entity to finalize the specific terms of a comprehensive development agreement.

(o) Provides that Chapter 2254 (Professional and Consulting Services), Government Code, does not apply to a comprehensive development agreement entered into under Section 91.054.

Sec. 91.056. CONFIDENTIALITY OF INFORMATION RELATING TO COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) Provides that certain information is confidential, is not subject to disclosure, inspection, or copying under Chapter 552, Government Code, and is not subject to disclosure, discovery, subpoena, or other means of legal compulsion for its release until a final contract for a proposed project is entered into.

(b) Provides that after the department completes its final ranking of proposals under Section 91.055(h), the final rankings of each proposal under each of the published criteria cease to be confidential.

Sec. 91.057. PERFORMANCE AND PAYMENT SECURITY. (a) Requires the department, notwithstanding the requirements of Subchapter B, Chapter 2253, Government Code, to require a private entity entering into a comprehensive development agreement under Section 91.054 to provide a performance and payment bond or an alternative form of security in an amount sufficient to take certain actions.

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

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

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

(e) Prohibits the amount of the payment security from being less than the amount of the performance security.

(f) Authorizes the department, in addition to or instead of performance and payment bonds, to require certain alternative forms of security

(g) Requires the Texas Transportation Commission (commission), by rule, to prescribe requirements for alternate forms of security provided under this section.

Sec. 91.058. OWNERSHIP OF RAIL FACILITY OR SYSTEM. (a) Provides that a rail facility or system that is the subject of a comprehensive development agreement with a private entity, including the facilities acquired or constructed on the project, is public property and shall to be owned by the department.

(b) Authorizes the department, notwithstanding Subsection (a), to enter into an agreement that provides for the lease of rights-of-way, the granting of easements, the issuance of franchises, licenses, or permits, or any lawful uses to enable a private entity to construct, operate, and maintain a rail facility or system. Provides that at the termination of the agreement, the rail facility or system is to be in a state of proper maintenance as determined by the department and is required to be returned to the department in satisfactory condition at no further cost.

Sec. 91.059. LIABILITY FOR PRIVATE OBLIGATIONS. Prohibits the department from incurring a financial obligation for a private entity that constructs, maintains, or operates a rail facility or system. Provides that the state or a political subdivision of the state is not liable for any financial or other obligations of a rail facility or system solely because a private entity constructs, finances, or operates any part of the project.

Sec. 91.060. TERMS OF PRIVATE PARTICIPATION. (a) Requires the department to negotiate the terms of private participation in a rail facility or system, including certain provisions.

(b) Requires a comprehensive development agreement entered into under Section 91.054 to include a provision authorizing the department to purchase, under terms and conditions agreed to by the parties, the interest of a private participant in a rail facility or system financed, constructed, operated, or maintained under the comprehensive development agreement.

Sec. 91.061. RULES, PROCEDURES, AND GUIDELINES GOVERNING SELECTION AND NEGOTIATING PROCESS. (a) Requires the commission to adopt rules, procedures, and guidelines governing selection of a developer for a comprehensive development agreement and negotiations to promote fairness, obtain private participants in rail facility projects, and promote confidence among those participants. Requires the rules to contain criteria relating to the qualifications of the participants and the award of the contracts.

(b) Requires the department to have up-to-date procedures for participation in negotiations on rail facility projects.

(c) Sets forth that the department has exclusive judgment to determine the terms of an agreement.

SECTION 1.03. Amends Section 91.071, Transportation Code, as follows:

Sec. 91.071. FUNDING. Deletes existing text relating to disbursements from the state highway fund.

SECTION 1.04. Amends Section 91.074(c), Transportation Code, to provide that a rail facility or system that is used or leased by a private entity for a commercial purpose is not exempt from ad valorem taxation and is subject to local zoning regulations and building standards.

SECTION 1.05. Amends Subchapter D, Chapter 91, Transportation Code, by adding Section 91.075, as follows:

Sec. 91.075. PASS-THROUGH FARES. (a) Defines "pass-through fare."

(b) Authorizes the department to enter into an agreement with a public or private entity that provides for the payment of pass-through fares to the public or private entity as reimbursement for the acquisition, design, development, financing, construction, relocation, maintenance, or operation of a passenger rail facility or a freight rail facility by the entity.

(c) Authorizes the department to use any available funds for the purpose of making a pass-through fare payment under this section, including funds from the state infrastructure bank.

(d) Authorizes the commission to adopt rules necessary to implement this section. Authorizes rules adopted under this subsection to include certain criteria.

## ARTICLE 2. HIGHWAYS

SECTION 2.01. Amends Section 201.001, Transportation Code, to define "toll project."

SECTION 2.02. Redesignates Section 203.004, Transportation Code, as Section 201.617, Transportation Code, and amends it as follows:

Sec. 201.617. New heading: MITIGATION OF ADVERSE ENVIRONMENTAL IMPACTS. (a) Authorizes the department, if directed by an applicable regulatory authority to take certain actions to mitigate an adverse environmental impact that is a direct result of a state highway improvement project. Deletes existing text relating to property used for the mitigation of an adverse environmental impact directly resulting from the construction or maintenance of a state highway.

(b) Makes no changes to this subsection.

(c) Redefines "management."

SECTION 2.03. Amends Subchapter K, Chapter 201, Transportation Code, by adding Section 201.907, as follows:

Sec. 201.907. CONTRACT FOR ENFORCEMENT. Authorizes the department or a public or private entity contracted to operate a toll project to contract with an agency of this state or a local governmental entity for the services of peace officers employed by the agency or entity to enforce certain laws relating to toll roads.

SECTION 2.04. Amends Section 203.052(b), Transportation Code, to provide that property necessary or convenient to a state highway for purposes of Subsection (a) includes an interest in

real property, a property right, or a material that the commission determines is necessary or convenient to provide a location for a gas station, convenience store, or similar facility that provides services to and directly benefits users of a state highway toll project, or to construct or operate a toll booth, toll plaza, service center, or other facility used in connection with the construction, maintenance, or operation of a toll project.

SECTION 2.05. Amends Sections 203.0521(a), (b), and (c), Transportation Code, as follows:

(a) Authorizes the department, if a proposed acquisition of a tract of real property under Section 203.052 would leave the owner of the property a remainder of the tract, to negotiate for and purchase the remainder on terms agreed to by the department and the owner. Deletes existing text requiring the commission to offer to purchase a remainder if the commission makes certain determinations.

(b) Authorizes the department, instead of making a single fixed payment for real property purchased under Subsection (a) for a toll project, to agree to make a payment to the owner in certain forms. Deletes existing text authorizing the department to acquire remainder property only if the owner consents.

(c) Provides that a right to receive revenue under Subsection (b)(1) is subject to any pledge of the revenue under the term of a trust agreement securing bonds issued for the applicable segment of the toll project. Deletes existing text excepting the department from acquiring remainder property if an appraisal or environmental investigation indicates the presence of hazardous materials or substances.

SECTION 2.06. Amends Section 203.055, Transportation Code, as follows:

Sec. 203.055. New heading: ACQUISITION OF RIGHTS IN PUBLIC REAL PROPERTY. (a) Authorizes the governing body of a political subdivision or public agency that owns or is in charge of public real property to consent to the use of the property for highway purposes.

(b) Creates this subsection from existing text. Authorizes the governing body of a political subdivision or public agency to, without advertisement, convey the title to or rights or easements in real property that the department needs for highway purposes. Deletes existing text relating to acquisition and ownership.

(c) Authorizes a political subdivision or a state agency, notwithstanding any law to the contrary, at the request of the department, to lease, lend, grant, or convey to the department real property, including a highway or real property currently devoted to public use, that may be necessary or appropriate to accomplish the department's purposes. Authorizes the political subdivision or state agency to lease, lend, grant, or convey the property under certain conditions. Deletes existing text defining "political subdivision."

SECTION 2.07. Transfers Sections 361.137, 361.138, 361.233, and 361.142, Transportation Code, to Subchapter D, Chapter 203, Transportation Code, redesignates them as Sections 203.066-203.069, and amends as follows:

Sec. 203.066. New heading: DECLARATION OF TAKING FOR TOLL PROJECT. Provides that this section and Sections 203.067 and 203.068 apply only to a taking for a toll project. Requires the declaration of taking to include a statement that immediate possession of all or part of the property to be condemned is necessary for the timely construction of a toll, rather than turnpike, project. Makes conforming changes.

Sec. 203.067. New heading : POSSESSION OF PROPERTY FOR TOLL PROJECT. Makes conforming changes.

Sec. 203.068. New heading: RIGHT OF ENTRY FOR TOLL PROJECT. Makes conforming changes.

Sec. 203.069. Makes no changes to this section.

SECTION 2.08. Amends Section 203.092(a) Transportation Code, to require a utility to make a relocation of a utility facility at the expense of this state if relocation is required by improvement of a segment of the state highway system that was designated by the commission as a turnpike project or toll project before September 1, 2005. Deletes existing text relating to relocation of a utility facility.

SECTION 2.09. Amends Section 221.001(1), Transportation Code, to redefine "highway."

SECTION 2.10. Amend Section 222.104, Transportation Code, as follows:

- (a) Makes no changes to this subsection.
- (b) Authorizes the department to enter into an agreement with a public or private entity that provides for the payment of pass-through tolls to the public or private entity as reimbursement for the design, development, financing, construction, maintenance, or operation of a toll or nontoll facility on the state highway system by the public or private entity.
- (c) Authorizes the department to enter into an agreement with a private entity that provides for the payment of pass-through tolls to the department as reimbursement for the department's design, development, financing, construction, maintenance, or operation of a toll or nontoll facility on the state highway system that is financed by the department.
- (d) Redesignated from Subsection (c). Authorizes the department and a regional mobility authority, a regional tollway authority, or a county acting under Chapter 284 to enter into an agreement that provides for certain payments to be made.
- (e) Redesignated from Subsection (d).
- (f) Authorizes a regional mobility authority, a regional tollway authority, or a county acting under Chapter 284 to secure and pay its obligations under an agreement under this section from any lawfully available funds.
- (g) Redesignated from Subsection (e). Requires rules adopted under this subsection to include, rather than establish, certain criteria.
- (h) Requires money repaid to the department under this section to be deposited to the credit of the fund from which the money was originally provided and provides that it is exempt from the application of Section 403.095, Government Code.

SECTION 2.11. Amends Chapter 233, Transportation Code, by adding Subchapter E, as follows:

#### SUBCHAPTER E. COMPREHENSIVE DEVELOPMENT AGREEMENTS

Sec. 223.201. AUTHORITY. (a) Authorizes the department, subject to Section 223.202, to enter into a comprehensive development agreement with a private entity to design, develop, finance, construct, maintain, repair, operate, extend, or expand a state highway.

- (b) Defines "comprehensive development agreement."
- (c) Authorizes the department to negotiate provisions relating to professional and consulting services provided in connection with a comprehensive development agreement.
- (d) Provides that money disbursed by the department under a comprehensive development agreement is not included in certain amounts.

(e) Authorizes the department to authorize the investment of public and private money, including debt and equity participation, to finance a function described by this section.

(f) Provides that the authority to enter into comprehensive development agreements provided by this section expires on August 31, 2011.

Sec. 223.202. LIMITATION ON DEPARTMENT FINANCIAL PARTICIPATION. Prohibits the amount of money disbursed by the department from the state highway fund and the Texas mobility fund during a federal fiscal year to pay the costs under comprehensive development agreements from exceeding 40 percent of the obligation authority under the federal-aid highway program that is distributed to this state for the fiscal year.

Sec. 223.203. PROCESS FOR ENTERING INTO COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) Requires the department, if the department enters into a comprehensive development agreement, to use a competitive procurement process that provides the best value for the department. Authorizes the department to accept unsolicited proposals for a proposed project or solicit proposals in accordance with this section.

(b) Requires the department to establish rules and procedures for accepting unsolicited proposals that require the private entity to include certain information in the proposal.

(c) Requires the department to publish a notice advertising a request for competing proposals and qualifications in the Texas Register that includes the criteria to be used to evaluate the proposals, the relative weight given to the criteria, and a deadline by which proposals must be received in certain circumstances.

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

(e) Authorizes the department to interview a private entity submitting an unsolicited proposal or responding to a request under Subsection (c). Requires the department to evaluate each proposal based on the criteria described in the request for competing proposals and qualifications and authorizes the department to qualify or shortlist private entities to submit detailed proposals under Subsection (f). Authorizes the department to qualify or shortlist at least two private entities to submit detailed proposals for a project under Subsection (f) unless the department does not receive more than one proposal or one response to a request under Subsection (c).

(f) Requires the department to issue a request for detailed proposals from all private entities qualified or shortlisted under Subsection (e) if the department proceeds with the further evaluation of a proposed project. Authorizes a request under this subsection to require certain additional information.

(g) Authorizes the department, in issuing a request for proposals under Subsection (f), to solicit input from entities qualified under Subsection (e) or any other person. Authorizes the department to also solicit input regarding alternative technical concepts after issuing a request under Subsection (f).

(h) Requires the department to evaluate each proposal based on the criteria described in the request for detailed proposals and select the private entity whose proposal offers the apparent best value to the department.

(i) Authorizes the department to enter into discussions with the private entity whose proposal offers the apparent best value. Requires the discussions to be limited to certain topics and issues.

(j) Authorizes the department, if at any point in negotiations under Subsection (i) it appears to the department that the highest ranking proposal will not provide the department with the overall best value, to enter into negotiations with the private entity submitting the next highest ranking proposal.

(k) Authorizes the department to withdraw a request for competing proposals and qualifications or a request for detailed proposals at any time. Authorizes the department to then publish a new request for competing proposals and qualifications.

(l) Authorizes the department to require that an unsolicited proposal be accompanied by a nonrefundable fee sufficient to cover all or part of its cost to review the proposal.

(m) Requires the department to pay an unsuccessful private entity that submits a responsive proposal in response to a request for detailed proposals under Subsection (f) a stipulated amount in exchange for the work product contained in that proposal. Requires the stipulated amount to be stated in the request for proposals and prohibits the stipulated amount from exceeding the value of any work product contained in the proposal that can, as determined by the department, be used by the department in the performance of its functions. Provides that the use by the department of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the department and does not confer liability on the recipient of the stipulated amount under this section. Provides that after payment of the stipulated amount:

(1) the department owns with the unsuccessful proposer jointly the rights to, and may make use of any work product contained in, the proposal, including the technologies, techniques, methods, processes, ideas, and information contained in the project design; and

(2) the use by the unsuccessful proposer of any portion of the work product contained in the proposal is at the sole risk of the unsuccessful proposer and does not confer liability on the department.

(n) Authorizes the department to prescribe the general form of a comprehensive development agreement and may include any matter the department considers advantageous to the department. Requires the department and the private entity to finalize the specific terms of a comprehensive development agreement.

(o) Provides that Subchapter A of this chapter and Chapter 2254, Government Code, do not apply to a comprehensive development agreement entered into under this subchapter.

Sec. 223.204. CONFIDENTIALITY OF INFORMATION. (a) Provides that to encourage private entities to submit proposals under this subchapter, certain information is confidential, is not subject to disclosure, inspection, or copying under Chapter 552 (Public Information), Government Code, and is not subject to disclosure, discovery, subpoena, or other means of legal compulsion for its release until a final contract for a proposed project is entered into.

(b) Provides that after the department completes its final ranking of proposals under Section 223.203(h), the final rankings of each proposal under each of the published criteria are not confidential.

Sec. 223.205. PERFORMANCE AND PAYMENT SECURITY. (a) Requires the department, notwithstanding Section 223.006 and the requirements of Subchapter B, Chapter 2253, Government Code, to require a private entity entering into a

comprehensive development agreement under this subchapter to provide a performance and payment bond or an alternative form of security in an amount sufficient to perform certain actions.

(b) Requires a performance and payment bond or alternative form of security to be in an amount equal to the cost of constructing or maintaining the project.

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

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

(e) Prohibits the amount of the payment security from being less than the amount of the performance security.

(f) Authorizes the department, in addition to or instead of performance and payment bonds, to require certain alternative forms of security.

(g) Requires the department, by rule, to prescribe requirements for alternative forms of security provided under this section.

Sec. 223.206. OWNERSHIP OF HIGHWAY. (a) Provides that a state highway that is the subject of a comprehensive development agreement with a private entity, including the facilities acquired or constructed on the project, is public property and is required to be owned by the department.

(b) Authorizes the department, notwithstanding Subsection (a), to enter into an agreement that provides for the lease of rights-of-way, the granting of easements, the issuance of franchises, licenses, or permits, or any lawful uses to enable a private entity to construct, operate, and maintain a state highway, including supplemental facilities. Provides that at the termination of the agreement, the highway, including the facilities, is to be in a state of proper maintenance as determined by the department and is required to be returned to the department in satisfactory condition at no further cost.

(c) Provides that for purposes of Section 11.11 (Public Property), Tax Code, a state highway that is licensed or leased to a private entity under a comprehensive development agreement is used for a public purpose if the highway is operated by the private entity to provide transportation services. Provides that a highway asset or toll project that is used or leased by a private entity under Section 202.052 or 228.053 for a commercial purpose is not exempt from ad valorem taxation and is subject to local zoning regulations and building standards.

Sec. 223.207. LIABILITY FOR PRIVATE OBLIGATIONS. Prohibits the department from incurring a financial obligation for a private entity that designs, develops, finances, constructs, maintains, or operates a state highway under this subchapter. Provides that the state or a political subdivision of the state is not liable for any financial or other obligations of a project solely because a private entity constructs, finances, or operates any part of the project.

Sec. 223.208. TERMS OF PRIVATE PARTICIPATION. (a) Requires the department to negotiate the terms of private participation under this subchapter, including certain costs, methods, and standards.

(b) Requires a comprehensive development agreement entered into under this subchapter to include a provision authorizing the department to purchase, under terms and conditions agreed to by the parties, the interest of a private participant

in a highway designed, developed, financed, constructed, operated, or maintained under the comprehensive development agreement.

(c) Authorizes the department to enter into a comprehensive development agreement under this subchapter with a private participant only if the project is identified in the department's unified transportation program or is located on a transportation corridor identified in the statewide transportation plan.

Sec. 223.209. RULES, PROCEDURES, AND GUIDELINES GOVERNING SELECTION AND NEGOTIATING PROCESS. (a) Requires the commission to adopt rules, procedures, and guidelines governing selection of a developer for a comprehensive development agreement and negotiations to promote fairness, obtain private participants in projects, and promote confidence among those participants. Requires the rules to contain criteria relating to the qualifications of the participants and the award of the contracts.

(b) Requires the department to have up-to-date procedures for participation in negotiations under this subchapter.

(c) Provides that the department has exclusive judgment to determine the terms of an agreement.

SECTION 2.12. Amends Section 244.151(9), Transportation Code, to redefine "restricted lane."

SECTION 2.13. Amends Section 227.001(9), Transportation Code, to redefine "turnpike."

SECTION 2.14. Amends Section 227.023, Transportation Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Makes conforming changes.

(d) Provides that for the purposes of Section 11.11, Tax Code, a facility that is licensed or leased to a private entity under a comprehensive development agreement, other than a facility described in Section 227.001(4)(E) that is used for commercial purposes, is used for a public purpose if the facility is operated by the private entity to provide transportation or utility services. Provides that property that is licensed or leased to a private entity under Section 227.082 for a commercial purpose is not exempt from ad valorem taxation and is subject to local zoning regulations and building standards.

SECTION 2.15. Amends Section 227.021, Transportation Code, by adding Subsection (f), as follows:

(f) Prohibits the department from pumping or extracting, or allowing the pumping or extracting, of groundwater from the right-of-way of the Trans-Texas Corridor unless the groundwater is needed for the construction, operation, or maintenance of a facility.

SECTION 2.16. Amends Section 227.041, Transportation Code, as follows:

(a) Makes conforming changes.

(b) Provides that an interest in real property or a property right is necessary or convenient for the construction or operation of a facility if it is located in or contiguous to an existing or planned segment of the Trans-Texas Corridor or is needed for mitigation of adverse environmental effects, and if its acquisition will further the primary purposes of the Trans-Texas Corridor.

(c) Deletes existing text relating to laws governing the acquisition of right-of-way for a state highway.

SECTION 2.17. Amends Subtitle B, Title 6, Transportation Code, by adding Chapter 228, transfers Sections 361.001, 361.301, 361.307, and 361.032, Transportation Code, to Chapter 228, Transportation Code, designates them as Subchapter A, and amends as follows:

## CHAPTER 228. STATE HIGHWAY TOLL PROJECTS

### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 228.001. DEFINITIONS. Defines "air quality project," "bond," "system," "toll project," and "transportation project." Deletes existing text defining "authority," "owner," "turnpike project," and "regional tollway authority."

Sec. 228.002. New heading: AGREEMENTS WITH PUBLIC ENTITIES. Authorizes the department to enter into an agreement with a public entity, rather than a public or private entity, including a toll road corporation, to permit the entity, independently or jointly with the department, to design, develop, finance, construct, maintain, repair, or operate a toll project. Deletes existing text authorizing the department to authorize the investment of money to finance certain projects. Makes conforming changes.

Sec. 228.003. New heading: AGREEMENTS WITH OTHER GOVERNMENTAL AGENCIES. (a) Authorizes the department, rather than the department and a private entity jointly, with the approval of the commission, to enter into an agreement with another governmental agency or entity, including a federal agency, an agency of this or another state, including the United Mexican States or a state of the United Mexican States, or a political subdivision, to independently or jointly provide services, to study the feasibility of a toll project, or to finance, construct, operate, and maintain a toll project. Requires the department to obtain the approval of the governor to enter into an agreement with an agency of another state, the United Mexican States, or a state of the United Mexican States.

(b) Authorizes the department and the private entity, if the department enters into an agreement with a private entity, including a comprehensive development agreement under Subchapter E, Chapter 223 to jointly enter into an agreement under Subsection (a). Deletes existing text prohibiting the department from entering into certain agreements without the approval of the governor.

Sec. 228.004. New heading: PROMOTION OF TOLL PROJECT. Authorizes the department, notwithstanding Chapter 2113, Government Code, to engage in marketing, advertising, and other activities to promote the development and use of toll projects and to enter into contracts or agreements necessary to procure marketing, advertising, or other promotional services from outside service providers. Deletes existing text relating to the commission adopting rules and department authorizations relating to implementation and administration of this chapter.

SECTION 2.18. Amends Subchapter A, Chapter 228, Transportation Code, by adding Section 228.005, as follows:

Sec. 228.005. TOLL REVENUE. Sets forth specific guidelines for toll revenue collected or received by the department under this chapter, except as provided by Subchapter C or E.

SECTION 2.19. Transfers Sections 361.189 and 224.154, Transportation Code, to Subchapter A, Chapter 228, Transportation Code, redesignates them as Sections 228.006 and 228.007, Transportation Code, and amends as follows:

Sec. 228.006. USE OF SURPLUS REVENUE. Authorizes the commission by order to authorize the use of surplus revenue of a toll project or system to pay the costs of a transportation project or air quality project within the region. Makes conforming changes.

Sec. 228.007. TOLL LANES. (a) Authorizes the commission by order to authorize the department to charge a toll for the use of one or more lanes of a state highway, rather than facility, including a high occupancy vehicle lane designated under Section 224.153 or an exclusive lane designated under Section 224.1541. Deletes existing text relating to congestion mitigation. Makes conforming changes.

(b) Makes a conforming change.

(c) Makes no changes to this subsection.

(d) Deletes existing text relating to the use of revenue generated from toll charges and collection fees.

(e) Requires the department, before the commission authorizes the department to charge a toll under Subsection (a) on a traffic lane that had been opened to traffic as a nontolled facility, to comply with Subchapter E. Deletes existing text relating to powers granted by this section.

SECTION 2.20. Transfers Section 224.1541(d), Transportation Code, to Subchapter A, Chapter 228, Transportation Code, redesignates it as Section 228.008, Transportation Code, and amends as follows:

Sec. 228.008. New heading: TOLLS ON EXCLUSIVE LANE. Makes a conforming change.

SECTION 2.21. Transfers Sections 361.180 and 361.033, Transportation Code, to Subchapter A, Chapter 228, Transportation Code, redesignates them as Sections 228.009 and 228.010, Transportation Code, and amends to make conforming changes.

SECTION 2.22. Amends Subchapter A, Chapter 228, Transportation Code, by adding Section 228.011, as follows:

Sec. 228.011. ESTABLISHMENT OF TOLL SYSTEMS. (a) Authorizes the commission, if it determines that the mobility needs of a region of this state could be most efficiently and economically met by jointly operating two or more toll projects in that region as one operational and financial enterprise, to create a system composed of those projects. Authorizes the commission to create more than one system in a region and to combine two or more systems in a region into one system. Authorizes the department to finance, acquire, construct, and operate additional toll projects in the region as additions to or expansions of a system if the commission determines that the toll project could most efficiently and economically be acquired or constructed if it were part of the system and that the addition will benefit the system.

(b) Requires the revenue of a system to be accounted for separately and prohibits the revenue from being commingled with the revenue of a toll project that is not part of the system or with the revenue of another system.

(c) Defines "region."

SECTION 2.23. Amends Chapter 228, Transportation Code, by adding Subchapter B, as follows:

#### SUBCHAPTER B. USE AND OPERATION OF TOLL PROJECTS OR SYSTEMS

Sec. 228.051. DESIGNATION. Authorizes the commission by order to designate one or more lanes of a segment of the state highway system as a toll project or system.

Sec. 228.052. OPERATION OF TOLL PROJECT OR SYSTEM. Authorizes the department to enter into an agreement with one or more persons to provide, on terms approved by the department, personnel, equipment, systems, facilities, and services

necessary to operate a toll project or system, including the operation of toll plazas and lanes and customer service centers and the collection of tolls.

SECTION 2.24. Transfers Sections 361.179, 361.252, 361.253, 361.254, 361.255, and 361.256, Transportation Code, to Subchapter B, Chapter 228, Transportation Code, redesignates them as Sections 228.053, 228.054, 228.055, 228.056, 228.057, and 228.058, Transportation Code, and amends them, as follows:

Sec. 228.053. REVENUE. (a) Authorizes the department, in addition to the powers granted, rather than notwithstanding anything, in Chapter 202, contract with a person for the use of part of a toll project or system or lease part of a toll project or system for a gas station, convenience store, or similar facility that provides services to and directly benefits users of a toll project. Deletes existing text relating to contracting for a garage, store, hotel, restaurant, railroad tracks, utilities, and telecommunications facilities and equipment and setting the terms for the use or lease.

(a-1) Authorizes a contract or lease agreement under Subsection (a)(2) to be entered into for the purpose of constructing and operating a commercial facility only if, on the effective date of the contract or lease agreement, a facility that provides a service described by that subdivision is not located within five miles of the part of the toll project to be used or leased.

(b) through (f) Make conforming changes.

(g) Makes no changes to this subsection.

Sec. 228.054. through Sec. 228.056. Make conforming changes

Sec. 228.057. New heading: ELECTRONIC TOLL COLLECTION. (a) and (b) Makes no changes to these subsections.

(c) Authorizes the department to enter into an agreement with one or more persons to market and sell transponders for use on department toll roads.

(d) Authorizes the department to charge reasonable fees for administering electronic toll collection customer accounts.

(e) Provides that electronic toll collection customer account information, including contact and payment information and trip data, is confidential and not subject to disclosure under Chapter 552, Government Code.

Sec. 228.058. AUTOMATED ENFORCEMENT TECHNOLOGY. (a) through (c) Makes no changes to these subsections.

(d) Prohibits evidence from technology approved by the department under Subsection (a) from being used in the prosecution of an offense other than under Section 228.054 or 228.055 or in the prosecution of a capital offense. Makes conforming changes.

SECTION 2.25. Transfers Sections 361.004, 361.171, 361.172, 361.173, 361.174, 361.1751, 361.1752, 361.1753, 361.176, 361.177, 361.178, 361.183, 361.185, 361.186, 361.187, and 361.188, Transportation Code, to Chapter 228, Transportation Code, designates them as Subchapter C, and amends them, as follows:

#### SUBCHAPTER C. TOLL REVENUE BONDS

Sec. 228.101. Provides that the cost of construction, improvement, extension, or expansion of a toll project or system under this chapter includes certain costs including the acquisition of machinery, equipment, software, intellectual property, and other advisory services. Makes conforming changes.

Sec. 228.102. New heading: ISSUANCE OF BONDS. Makes conforming changes. Deletes existing text relating to projects being required to be financed by certain means.

Sec. 228.103. Makes conforming changes.

Sec. 228.104. Requires the principal of, interest on, and any redemption premium on bonds issued by the commission under this subchapter to be paid solely from surplus revenue of another project or system as authorized by Section 228.006 and certain amounts received by the department. Makes conforming changes.

Sec. 228.105. New heading: SOURCES OF PAYMENT OF AND SECURITY FOR TOLL REVENUE BONDS. Makes conforming changes.

Sec. 228.106. Makes a conforming change.

Sec. 228.107. EFFECT OF LIEN. Provides that a lien on or a pledge of revenue, a contract payment, or a pledge of money to the payment of bonds issued under this subchapter is valid and effective in accordance with Chapter 1208 (Security for Public Securities), Government Code, and is enforceable in any court at the time of payment and delivery of the bond. Deletes existing text relating to a turnpike project.

Sec. 228.108. Makes conforming changes.

Sec. 228.109. Authorizes surplus revenue, notwithstanding Subsection (c), to be used for a transportation or air quality project as authorized by Section 228.006. Makes conforming changes.

Sec. 228.110. Deletes existing text relating to covenants prescribing terms on which any or all of the bonds may be declared before maturity. Makes conforming changes.

Sec. 228.111 through Sec. 228.116. Make conforming changes.

SECTION 2.26. Transfers Subchapter H, Chapter 361, Transportation Code, to Chapter 228, Transportation Code, redesignates it as Subchapter D, and amends it, as follows:

#### SUBCHAPTER D. TRANSFER OF TOLL PROJECT

Deletes existing Section 361.281 relating to the applicability of the subchapter.

Sec. 228.151. Authorizes the department to lease, sell, or transfer in another manner a toll project or system to a governmental entity that has the authority to operate a tolled highway, rather than a county, a municipality, regional tollway authority, regional mobility authority. Makes conforming changes.

Sec. 228.152. through Sec. 228.154. Makes conforming changes.

SECTION 2.27. Chapter 228, Transportation Code, is amended by adding Subchapter E as follows:

#### SUBCHAPTER E. CONVERSION OF NONTOLLED HIGHWAY

Sec. 228.201. APPLICABILITY OF SUBCHAPTER. Provides that the requirements of this subchapter do not apply to a highway or segment that meets certain criteria.

SECTION 2.28. Transfers Section 362.0041, Transportation Code, to Subchapter E, Chapter 228, Transportation Code, redesignates as Sections 228.202-228.208, and amends, to read as follows:

Sec. 228.202. New heading: COMMISSION DETERMINATION. Makes conforming changes.

Sec. 228.203. New heading: PUBLIC HEARING. Makes conforming changes.

Sec. 228.204. New heading: RULES. Requires the commission to adopt rules implementing this subchapter, rather than section, including criteria and guidelines for the approval of a conversion highway. Makes conforming changes.

Sec. 228.205. New heading: QUEEN ISABELLA CAUSEWAY. Makes conforming changes.

Sec. 228.206. New heading: TOLL REVENUE. Deletes existing text relating to a highway converted to a toll facility under this section. Makes conforming changes.

Sec. 228.207. New heading: COUNTY AND VOTER APPROVAL. Authorizes the commission to only convert a state highway or a segment of a state highway under this subchapter if the conversion is approved by the qualified voters who vote in an election under Section 228.208 and who reside in the limits of certain counties and municipalities.

Sec. 228.208. ELECTION TO APPROVE CONVERSION. (a) Requires the governing body, if notified by the department of the proposed conversion of a highway or segment under this subchapter, to by order or resolution call an election for the approval or disapproval of the conversion.

(b) Requires the county or municipality, if a county or municipality orders an election, to publish notice of the election in a newspaper of general circulation published in the county or municipality at least once each week for three consecutive weeks, with the first publication occurring at least 21 days before the date of the election.

(c) Requires an order or resolution ordering an election and the election notice required by Subsection (b) to show, in addition to the requirements of the Election Code, the location of each polling place and the hours that the polls will be open.

(d) Requires the proposition submitted in the election to distinctly state the highway or segment proposed to be converted and the limits of that highway or segment.

(e) Requires ballots, at an election ordered under this section, to be printed to permit voting for or against the proposition: "The conversion of (highway) from (beginning location) to (ending location) to a toll project."

(f) Provides that a proposed conversion is approved only if it is approved by a majority of the votes cast.

(g) Requires a notice of the election and a certified copy of the order canvassing the election results to be sent to the commission.

SECTION 2.29. Transfers Sections 362.001, 362.003, 362.006, and 362.007, Transportation Code, to Chapter 228, Transportation Code, designates as Subchapter F, and amends, as follows:

#### SUBCHAPTER F. JOINT TOLL PROJECTS.

Sec. 228.251. DEFINITIONS. Deletes existing text defining "cost" and "turnpike projects." Makes conforming changes.

Sec. 228.252. through Sec. 228.254. Make conforming changes.

SECTION 2.30. Amends Section 284.061(c), Transportation Code, to make a conforming change.

SECTION 2.31. Amends Subchapter C, Chapter 284, Transportation Code, by adding Section 284.0615, as follows:

Sec. 284.0615. DECLARATION OF TAKING BY CERTAIN COUNTIES.

(a) Provides that this section applies only to a county with a population of 3.3 million or more.

(b) Provides that if, in connection with a project under this chapter, a commissioners court of the county authorizes the county to proceed in the manner provided by Section 203.066:

(1) the county may file a declaration of taking and proceed in the manner provided by that section on the project; and

(2) a reference to the department in that section means the county.

SECTION 2.32. Amends Section 366.035, Transportation Code, by amending Subsection (a) and adding Subsections (h) and (i), as follows:

(a) Authorizes any segment located in a county of an authority or a county in which an authority operates a turnpike project or in any county adjacent to those counties, except as provided under Subsections (g) and (h) and subject to Subsection (i), if the commission determines that the most feasible and economic means to accomplish necessary expansion, improvements, or extensions to the state highway system is the conversion to a turnpike project of a nontolled, rather than free segment of the state highway system, on approval of the governor and the affected authority, to be transferred by order of the commission to that authority.

(h) Provides that the requirements of this section do not apply to a highway or segment that meets certain conditions.

(i) Authorizes the commission to only transfer a highway or segment to an authority under this section if the transfer is approved by a majority of the voters in each county in which the highway or segment is located.

SECTION 2.33. Amends Subchapter B, Chapter 366, Transportation Code, by adding Section 366.036, as follows:

Sec. 366.036. ELECTION TO APPROVE TRANSFER. (a) Requires the commissioners court of a county, if notified by the department of the proposed transfer under Section 366.035, to call an election for the approval or disapproval of the transfer.

(b) Requires the county, if a county orders an election, to publish notice of the election in a newspaper of general circulation published in the county at least once each week for three consecutive weeks, with the first publication occurring at least 21 days before the date of the election.

(c) Requires an order calling an election and the election notice required by Subsection (b) to show, in addition to the requirements of the Election Code, the location of each polling place and the hours that the polls will be open.

(d) Requires the proposition submitted in the election to distinctly state the highway or segment proposed to be transferred and the limits of that highway or segment.

(e) Requires ballots, at an election ordered under this section, to be printed to permit voting for or against the proposition. Sets forth the specific language of the proposition.

(f) Requires a notice of the election and a certified copy of the order canvassing the election results to be sent to the commission.

SECTION 2.34. Amends Section 370.035, Transportation Code, by amending Subsection (a) and adding Subsection (i), as follows:

(a) Authorizes the commission, by order, to transfer a nontolled segment of the state highway system to an authority for the purpose of converting the segment to a turnpike project, or may transfer an existing turnpike project that is part of the state highway system, whether previously tolled or not, to an authority if the transfer is approved by a majority of the voters in each county in which the segment is located; and the transfer is approved by the governor.

(i) Provides that the requirements of this section do not apply to a highway or segment that meets certain conditions.

SECTION 2.35. Amends Subchapter B, Chapter 370, Transportation Code, by adding Section 370.0355, as follows:

Sec. 370.0355. ELECTION TO APPROVE TRANSFER. (a) Requires the commissioners court of a county, if notified by the department of the proposed transfer under Section 370.035, to call an election for the approval or disapproval of the transfer.

(b) Requires the county, if a county orders an election, to publish notice of the election in a newspaper of general circulation published in the county at least once each week for three consecutive weeks, with the first publication occurring at least 21 days before the date of the election.

(c) Requires an order calling an election and the election notice required by Subsection (b) to show, in addition to the requirements of the Election Code, the location of each polling place and the hours that the polls will be open.

(d) Requires the proposition submitted in the election to distinctly state the highway or segment proposed to be transferred and the limits of that highway or segment.

(e) Requires ballots, at an election ordered under this section, to be printed to permit voting for or against the proposition. Sets forth the specific language of the proposition.

(f) Requires a notice of the election and a certified copy of the order canvassing the election results to be sent to the commission.

SECTION 2.36. Amends Section 370.163(a), Transportation Code, to make conforming changes. Deletes existing text relating to the concurrence of the commission.

SECTION 2.37. Amends Section 101.022, Civil Practice and Remedies Code, as follows:

Sec. 101.022. DUTY OWED: PREMISE AND SPECIAL DEFECTS. (a) Provides that except as provided in Subsection (c), if a claim arises from a premise defect, the governmental unit owes to the claimant only the duty that a private person owes to a licensee on private property, unless the claimant pays for the use of the premises.

(c) Provides that if a claim arises from a premise defect on a toll highway, road, or street, the governmental unit owes to the claimant only the duty that a private person owes to a licensee on private property.

SECTION 2.38. Amends Section 11.11, Tax Code, by adding Subsection J, as follows:

(j) Provides that for purposes of this section, a facility owned by the department that is part of the Trans-Texas Corridor, is a rail facility or system, or is a highway in the state highway system, and that is licensed or leased to a private entity by that department under Chapter 91 (Rail Facilities), 223 (Bids and Contracts for Highway Projects), or 227 (Trans-Texas Corridor), Transportation Code, is public property used for a public

purpose if the rail facility or system, highway, or facility is operated by the private entity to provide transportation or utility services. Provides that any part of a facility, rail facility or system, or state highway that is licensed or leased to a private entity for a commercial purpose is not exempt from taxation.

SECTION 2.39. Repealer: From the Transportation Code.

Repealer: Section 201.6061 (Payment of Fee to Public Agency or Private Entity in Connection with Mitigation of Certain Adverse Environmental Impacts);

(2) Section 222.103(h) (Cost Participation);

(3) Sections 224.155 (Failure or Refusal to Pay Toll), 224.156 (Collection Fee; Notice; Offense), 224.157 (Presumptions; Prima Facie Evidence; Defenses), 224.158 (Use and Return of Transponders), and 224.160 (Automated Enforcement Technology);

(4) Section 361.002 (Chapter Liberally Construed);

(5) Sections 361.031 (Texas Turnpike Authority) and 361.050 (Disadvantaged Businesses);

(6) Sections 361.131 (Powers and Procedures of Department in Acquiring Property), 361.132 (Acquisition of Property), 361.133 (Acquisition of Rights in Public Real Property), 361.134 (Description of Real Property), 361.135 (Condemnation of Real Property), 361.136 (Severance of Real Property), 361.1375 (Declaration of taking by Certain Counties), and 361.140 (Restoration of or Compensation for Damage to or Destruction of Private Property), 361.141 (Compensation for and Restoration of Public Property), and 361.142 (Covenants, Conditions, Restrictions, or Limitations);

(7) Sections 361.175 (Turnpike Revenue Refunding Bonds) and 361.191 (Expenditure of Money Authorized by Commission);

(8) Subchapter F, Chapter 361 (Construction, Maintenance, and Operation of Turnpike Projects);

(9) Section 361.251 (Turnpike Project a State Highway);

(10) Sections 361.302 (Comprehensive Development Agreements), 361.3021 (Limitation on Department Financial Participation), 361.3022 (Process for Entering into Comprehensive Development Agreements), 361.3023 (Confidentiality of Information Relating to Comprehensive Development Agreements), 361.3024 (Performance and Payment Security) 361.303 (Ownership of Turnpike Project), 361.304 (Liability for Private Obligations), 361.305 (Terms of Private Participation), and 361.306 (Rules, Procedures, and Guidelines Governing Selection and Negotiating Process);

(11) Subchapter J, Chapter 361 (Pooling of Turnpike Projects);

(12) Sections 362.002 (Construction) and 362.008 (Additional Agreements of Department); and

(13) Section 370.163(b) (Acquisition of Property).

ARTICLE 3. AVIATION

SECTION 3.01. Amends the heading to Subchapter A, Chapter 2205, to read as follows:

SUBCHAPTER A. STATE AIRCRAFT POOLING;  
GENERAL PROVISIONS

SECTION 3.02 Amends Section 2205.002, Government Code, by amending Subdivision (1) and adding Subdivision (1-a) as follows:

(l) Defines "commission." Deletes existing text defining "board."

(1-a) Defines "department."

SECTION 3.03. Amends Section 2205.032, Government Code, as follows:

Sec. 2205.032. CUSTODY, CONTROL, OPERATION, AND MAINTENANCE. (a) Requires the department, rather than the State Aircraft Pooling Board (board), to operate a pool for the custody, control, operation, and maintenance of all aircraft owned or leased by the state.

(b) Makes conforming changes.

(c) Makes conforming changes and deletes existing text relating to an appropriations request.

(d) Provides that this section does not apply to aircraft owned or operated by the Department of Public Safety or the Parks and Wildlife Department that are used for law enforcement.

SECTION 3.04. Amends Section 2205.034, Government Code, to make conforming changes.

SECTION 3.05. Amends Section 2205.035, Government Code, to make conforming changes. Deletes existing text relating to a state agency being the prior owner of an aircraft.

SECTION 3.06. Amends Section 2205.036, Government Code, to authorize the department to monitor and ensure compliance with the requirements of this section. Makes conforming changes.

SECTION 3.07. Amends Section 2205.038, Government Code, to require the department to prepare a manual that establishes minimum standards for the operation of passenger aircraft by state agencies. Makes conforming changes.

SECTION 3.08. Amends Section 2205.039, Government Code, to authorize the department to monitor and ensure compliance with the requirements of this section. Makes conforming changes.

SECTION 3.09. Amends Section 2205.040, Government Code, as follows:

(a) Makes conforming changes.

(b) Requires the department to deposit all revenue received under this chapter to the credit of the state highway fund. Provides that money deposited to the credit of the state highway fund under this section is exempt from the application of Section 403.095. Deletes existing text relating to a requirement to prescribe a billing procedure.

(c) Authorizes the department to spend money from the state highway fund for expenses incurred under this chapter.

(d) Sets forth that it is the intent of the legislature that receipts and expenditures that relate to the state highway fund under this chapter be balanced over time so that, to the extent practicable, the receipts and expenditures do not result in a net gain or net loss to the fund.

SECTION 3.10. Amends Section 2205.041(a), Government Code, to make conforming changes.

SECTION 3.11. Amends Section 2205.043(b), Government Code, to require the commission to adopt rules, consistent with federal regulations and Subtitle A, Title 11, rather than Article 6139f, Revised Statutes. Makes conforming changes.

SECTION 3.12. Amends Section 2205.044, Government Code, as follows:

Sec. 2205.044. New heading: FUEL AND MAINTENANCE. Authorizes the department to provide aircraft fuel or aircraft maintenance services to a state or federal governmental agency or a political subdivision if the agency or political subdivision reimburses the department at the current rates for the fuel or services. Makes conforming changes.

SECTION 3.13. Amends Section 2205.045(a), Government Code, to make conforming changes.

SECTION 3.14. Amends Section 2205.046, Government Code, to make conforming changes.

SECTION 3.15. Amends Section 2205.047, Government Code, to make conforming changes.

SECTION 3.16. Amends Section 2175.134(c), Government Code, to require that proceeds from the sale of surplus and salvage property formerly belonging to the board be deposited to the credit of the state highway fund to be used for the purpose of administering Chapter 2205.

SECTION 3.17. Amends Section 2175.191(c), Government Code, to require that proceeds from the sale of surplus and salvage property formerly belonging to the board be deposited to the credit of the state highway fund to be used for the purpose of administering Chapter 2205.

SECTION 3.18. (1) Repealer: Sections 2205.003 (Establishment), 2205.004 (Composition of Board; Terms), 2205.005 (Appointments), 2205.006 (Eligibility), 2205.007 (Conflicts of Interest), 2205.008 (Information About Qualifications and Standards of Conduct), 2205.009 (Removal), 2205.010 (Presiding Officer; Meetings; Quorum), 2205.011 (Public Access and Testimony), 2205.012 (Staff), 2205.013 (Merit Pay), 2205.014 (Career Ladder), 2205.015 (Equal Employment Opportunity), 2205.016 (Annual Report), 2205.017 (Information on Complaints), 2205.018 (State Employee Incentive Program), 2205.019 (Sunset Provision), and 2205.042 (Pilots).

(2) Repealer: Section 31.01, Chapter 3, Acts of the 78th Legislature, 3rd Called Session, 2003.

#### ARTICLE 4. TRANSITION PROVISIONS; EFFECTIVE DATE.

SECTION 4.01. Makes application of Section 101.022, Civil Practice and Remedies Code, as amended by this Act, prospective.

SECTION 4.02. Sets forth that on the effective date of this Act: (1) the State Aircraft Pooling Board is abolished, and all powers, duties, obligations, rights, contracts, bonds, appropriations, records, and real or personal property of the State Aircraft Pooling Board are transferred to the Texas Department of Transportation;

(2) a rule, policy, procedure, or decision of the State Aircraft Pooling Board continues in effect as a rule, policy, procedure, or decision of the Texas Department of Transportation until superseded by an act of the Texas Department of Transportation;

(3) a reference in law to the State Aircraft Pooling Board means the Texas Department of Transportation;

(4) all temporary employees of the Texas Department of Transportation who were previously employed by the State Aircraft Pooling Board on August 31, 2003, become regular full-time employees of the Texas Department of Transportation; and

(5) notwithstanding Section 31.01, Chapter 3, Acts of the 78th Legislature, 3rd Called Session, 2003, any memorandum of understanding or interagency contract entered into between the Texas Department of Transportation and the State Aircraft Pooling Board for the operation of state aircraft expires.

SECTION 4.03. Effective date: upon passage or September 1, 2005.